

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

AARON MALDONADO, *et al.*,

§

*Plaintiffs,*

§

v.

§

MAMMOTH ENERGY SERVICES,  
INC., COBRA ACQUISITIONS, LLC,  
HIGHER POWER ELECTRICAL, LLC,  
and 5 STAR ELECTRIC, LLC,

§ Case No. 5:21-cv-00085

*Defendants.*

§

§

§

SUPPLEMENTAL APPENDIX 6 IN SUPPORT OF DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT  
EXHIBITS 16 THROUGH 19

Dated this 2nd day of August, 2024.

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Cobra Acquisitions, LLC,  
Higher Power Electrical, LLC, and 5 Star  
Electric, LLC*

Pursuant to Local Rule CV-7(c), Defendants file this Appendix in support of their Motion for Summary Judgment.

**Index of Evidence Supporting Motion for Summary Judgment**

Transcript of Ben Hargrove's Deposition.....	Exhibit 16
Transcript of Donald Roberts' Deposition.....	Exhibit 17
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Transcript of Miguel Rosario's Deposition .....	Exhibit 19

**DATED:** August 2, 2024.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that I filed the foregoing document in accordance with the protocols for e-filing through the CM/ECF system in the United States District Court for the Western District of Texas, San Antonio Division, on August 2, 2024, and therefore has been served upon all counsel of record in accordance with such e-filing protocols.

/s/ William R. Stukenberg  
William R. Stukenberg

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE WESTERN DISTRICT OF TEXAS  
3                   SAN ANTONIO DIVISION  
4                   AARON MALDONADO, ET AL         )  
5    )  
6                   vs.                                      ) CASE NO. 5:21-cv-85  
7    )  
8                   MAMMOTH ENERGY SERVICES,         )  
9                   INC., COBRA ACQUISITIONS,         )  
10                   LLC, HIGHER POWER                 )  
11                   ELECTRICAL, LLC AND 5 STAR)  
12                   ELECTRIC, LLC                         )  
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Page 1

1 APPEARANCES 2 FOR PLAINTIFFS: 3 DOUGLAS B. WELMAKER, ESQ. WELMAKER LAW 4 409 N. Fredonia Suite 118 5 Longview, Texas 75601 E-mail: doug@welmakerlaw.com 6 FOR DEFENDANTS: 7 8 EUGENE M. NETTLES, ESQ. 9 PORTER HEDGES 1000 Main Street 9 36th Floor Houston, Texas 77002 10 E-mail: enettles@porterhedges.com 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 BENJAMIN HARGROVE, 2 having been first duly sworn, testified as follows: 3 EXAMINATION 4 Q. (BY MR. NETTLES) State your full name for 5 the record, please, sir. 6 A. Benjamin Lee Hargrove. 7 Q. That's L-E-E? 8 A. Yes, sir. 9 Q. And your birth date? 10 A. September 2nd, 1981. 11 Q. And you're 43? 12 A. 42. 43 in September. 13 Q. All right. Where do you live? 14 A. In Midland, Texas, at the moment. 15 Q. And how are you currently employed? 16 A. I work for an electric utility there in 17 Midland full-time. 18 Q. And what is the name of that company? 19 A. Oncore Electric. 20 Q. Oncore? 21 A. O-N-C-O-R. 22 Q. And how long have you worked for Oncore 23 Electric? 24 A. I've been employed by them directly just 25 shy of two years now, and I was a contractor for them
Page 2	Page 4

1 INDEX 2 PAGE 3 BENJAMIN HARGROVE 4 Examination by Mr. Nettles .....4 5 6 EXHIBITS 7 8 NO. DESCRIPTION PAGE 9 Exhibit 1 Notice of Deposition 5 Exhibit 2 Notice of Transition 9 10 Exhibit 3 Time Detail Report 31 Exhibit 4 Interrogatories 35 11 Exhibit 5 Earnings Statements 41 Exhibit 6 W-2 2017 59 12 Exhibit 7 W-2 2018 60 13 14 15 16 17 18 19 20 21 22 23 24 25	1 for the two years prior to that. 2 Q. All right. I'm going to show you what we 3 have now marked as Exhibit 1. That is a copy of your 4 deposition notice. 5 You understand that you are being 6 deposed here today in Houston, Texas? 7 A. Yes, sir. 8 Q. Have you ever been to Houston before? 9 A. Yes, sir. 10 Q. Okay. 11 (Exhibit 1 marked) 12 Q. (BY MR. NETTLES) And you're at the law 13 offices at 1000 Main? 14 A. Yes, sir. 15 Q. And you understand that I'm one of the 16 lawyers that represents the defendants in this case? 17 A. Yes, sir. 18 Q. And you're here today with your lawyer; is 19 that correct? 20 A. That is correct, yes, sir. 21 Q. Have you ever given a deposition before? 22 A. No, sir, I have not. 23 Q. You understand generally what the rules are 24 with respect to a deposition? 25 A. I don't know in any kind of thorough
Page 3	Page 5

2 (Pages 2 - 5)

1 manner. No, sir, I would say not.  
 2 Q. I'm assuming your lawyer has at least  
 3 talked to you --  
 4 A. Yes, sir.  
 5 Q. -- a little bit about what a deposition is  
 6 about?  
 7 A. Yes, sir.  
 8 Q. You understand you need to answer out, to  
 9 begin with?  
 10 A. Answer out?  
 11 Q. Answer out. You need to answer verbally.  
 12 A. Okay. Yes, sir.  
 13 Q. You can't nod your head.  
 14 A. I understand. Yes, sir.  
 15 Q. All right. And if you don't understand a  
 16 question, you can stop me and ask me to repeat it or  
 17 tell me you don't understand.  
 18 A. Okay.  
 19 Q. So can we have the agreement that if I ask  
 20 you a question and you answer that it that you've  
 21 understood the question?  
 22 A. Yes, sir, I agree.  
 23 Q. Any time you want to stop and take a break,  
 24 you're free to do that, as well.  
 25 A. Okay.

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1 controlled substance in Williamson County, Texas. I  
 2 was placed on deferred adjudication. I completed my  
 3 probation successfully. And then as far as I  
 4 understand, I was not convicted of that crime.  
 5 Q. Maybe it was expunged?  
 6 A. I believe so, yes, sir.  
 7 Q. Was that marijuana?  
 8 A. No, sir. That was cocaine, less than half  
 9 a gram.  
 10 Q. Okay. Other than that, nothing else?  
 11 A. No, sir. That's it.  
 12 Q. All right. And did you have to go to  
 13 court?  
 14 A. Yes.  
 15 Q. All right. So have you ever seen the  
 16 complaint that was filed in this case? When I say  
 17 "complaint," it's the civil lawsuit that's pending in  
 18 federal court.  
 19 A. I believe it may have been sent to me, but  
 20 I -- I don't believe that I read it thoroughly.  
 21 Q. So just to sort of backing up on this  
 22 thing, you were -- as I understand, your hire date  
 23 was December the 8th of '17?  
 24 A. That sounds correct, yes, sir.  
 25 Q. And were you hired to go specifically to

Page 8

1 Q. And you understand you're under oath,  
 2 right?  
 3 A. Yes, sir. I understand that.  
 4 Q. Have you ever testified before in any kind  
 5 of a proceeding?  
 6 A. Not that I can recall, no, sir.  
 7 Q. Never been involved in a lawsuit before?  
 8 A. No, sir.  
 9 Q. Never been married and divorced?  
 10 A. No, sir.  
 11 Q. Are you currently married?  
 12 A. No, sir.  
 13 Q. Ever had a traffic ticket?  
 14 A. Yes.  
 15 Q. Did you have to go to court?  
 16 A. No, sir.  
 17 Q. All right. So you've never been sued  
 18 before?  
 19 A. No, sir.  
 20 Q. All right. Never been charged with a  
 21 crime?  
 22 A. I have been -- I've been arrested. I don't  
 23 believe I've been convicted.  
 24 Q. What were you arrested for?  
 25 A. In 2007, I was arrested for possession of a

Page 7

1 Puerto Rico?  
 2 A. Yes, sir, that's correct.  
 3 Q. All right. And you were hired at that time  
 4 by -- was it Higher Power?  
 5 A. Higher Power, yes, sir.  
 6 Q. All right. And your termination date, as I  
 7 recall, was April 19, '19.  
 8 A. Yes. However, I was -- when I resigned, we  
 9 were working directly for Cobra Energy Services at  
 10 that point. I transitioned from Higher Power to  
 11 Cobra I believe in that July date, the 23rd of -- was  
 12 that '18, I believe?  
 13 Q. Right.  
 14 A. Yes, sir.  
 15 Q. When you made that transition, did you do  
 16 it in Puerto Rico, or were you back --  
 17 A. No, we did it in Puerto Rico.  
 18 Q. Okay. And as I recall -- that may have  
 19 been the time --  
 20 MR. NETTLES: Go ahead and mark this.  
 21 (Exhibit 2 marked)  
 22 Q. (BY MR. NETTLES) Now, Exhibit 2 is a  
 23 notice of transition from -- it says "restoration  
 24 project into reconstruction," the effective date  
 25 being July 23rd, '18, right?

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3 (Pages 6 - 9)

<p>1 A. Yes, sir.</p> <p>2 Q. And this is a notice to you that your hours 3 were going to change, right?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Instead of working 16 hours a day and seven 6 days a week, you were working six days and 12 hours; 7 is that correct?</p> <p>8 MR. WELMAKER: Objection. Form.</p> <p>9 Q. (BY MR. NETTLES) Go ahead.</p> <p>10 MR. WELMAKER: Any time I object and I 11 don't instruct you not to answer, you can go ahead 12 and answer. Go ahead.</p> <p>13 A. My understanding was this was the 14 transition point from having our day rate and then 15 moving forward with -- I believe we were also given a 16 per diem during this time period, too, whereas before 17 they provided housing and some meals.</p> <p>18 So to me, this was kind of the 19 demarcation point between the day rate, they provided 20 a hotel and some meals, to we were responsible for 21 our -- finding our own place to stay, we were paid a 22 per diem, and then an hourly rate with overtime.</p> <p>23 Q. (BY MR. NETTLES) Did your hours change, as 24 well?</p> <p>25 A. When you say "hours," are you referring</p>	Page 10	<p>1 A. I believe that's correct, yes, sir.</p> <p>2 Q. And maybe later from Cobra?</p> <p>3 A. Yes. Later, it was from Cobra.</p> <p>4 Q. Okay. Let's go back to -- I say the 5 beginning, but tell me a little bit about yourself.</p> <p>6 Where are you from?</p> <p>7 A. I originally grew up in Georgetown, Texas, 8 north of Austin. Attended Georgetown High School. I 9 left there and spent a couple of years at Texas Tech. 10 Enlisted in the Army, got out in 2005. I was 11 stationed at Fort Campbell, Kentucky. And then 12 ultimately finished up my undergraduate degree at 13 University of Texas at Austin in 2014. Actually had 14 a job with an oil and gas company in Austin, and then 15 moved over and started doing -- my first job was 16 doing electrical distribution design. That got me 17 into the power line industry. That was probably 18 somewhere around 2013, if I recall.</p> <p>19 Q. All right. Let me kind of back up on the 20 dates a little bit.</p> <p>21 A. Sure.</p> <p>22 Q. What year did you end up getting out of 23 high school?</p> <p>24 A. 2000.</p> <p>25 Q. All right. And then you went to Tech,</p>	Page 12
<p>1 to --</p> <p>2 Q. How about your work schedule? If you look 3 on this document --</p> <p>4 A. Right. Our work schedule was pretty 5 similar. I think our rotation back home may have 6 changed or we may have firmed it up from what we were 7 previously doing, but our day-to-day operations were 8 pretty similar, from my recollection.</p> <p>9 Q. All right. With respect to the complaint 10 that was filed, you understand that the complaint was 11 filed against a number of other parties? For 12 instance, Mammoth Energy Services was named.</p> <p>13 A. Yes, sir.</p> <p>14 Q. And that's not -- you never worked for 15 Mammoth Energy Services, correct?</p> <p>16 A. Well, at the time -- and I don't remember 17 when exactly this happened, but my understanding was 18 that Higher Power was owned by Mammoth, as well as 19 Cobra. We had supervision from Cobra personnel when 20 we were on the island. So even though I was working 21 for Higher Power, we all knew they were somehow under 22 this Mammoth umbrella. I don't know to what detail, 23 but that was all our understanding.</p> <p>24 Q. With respect to your paychecks, it only 25 came from Higher Power at that --</p>	Page 11	<p>1 straight there?</p> <p>2 A. Yes, sir. My freshman year was at Texas 3 Tech University.</p> <p>4 Q. In 2000 or 2001?</p> <p>5 A. I believe fall of 2000, spring of 2001.</p> <p>6 Q. You stayed there two years?</p> <p>7 A. I was only there a year and left and went 8 to a different college in Waco, Texas.</p> <p>9 Q. Baylor or what?</p> <p>10 A. TSTC. Texas State Technical College-Waco. 11 I did pilot training there.</p> <p>12 Q. How long did you stay there?</p> <p>13 A. I was only there a year, I believe. And 14 that was during the time when 911 happened, and I 15 enlisted. I think initially it was into the Air 16 Force Reserves, but ended up transferring into the 17 Army not long after that.</p> <p>18 Q. And that would have been --</p> <p>19 A. 2002 time frame.</p> <p>20 Q. Okay. And how long did you stay in the 21 Army?</p> <p>22 A. Three years.</p> <p>23 Q. And when you signed up, was that the 24 minimum or --</p> <p>25 A. Yes, sir, that was the minimum.</p>	Page 13

4 (Pages 10 - 13)

<p>1 Q. All right. And in the Army, what did you 2 do?</p> <p>3 A. I was a logistics specialist.</p> <p>4 Q. All right.</p> <p>5 A. I -- basically warehouse kind of 6 operations. Nothing too exciting.</p> <p>7 Q. Where were you stationed?</p> <p>8 A. Fort Campbell, Kentucky, was my -- I was 9 stationed in multiple places; but Fort Campbell, 10 Kentucky, for the longest period of time.</p> <p>11 Q. And you were honorably discharged?</p> <p>12 A. Yes, sir.</p> <p>13 Q. So that takes us to roughly 2005 or --</p> <p>14 A. Yes.</p> <p>15 Q. All right. So what happened in 2005?</p> <p>16 A. I came back home. I think I was trying to 17 go to attend college part-time to keep working on my 18 degree, and that would have been Texas State or --</p> <p>19 what did they use to call it back in the day --</p> <p>20 Southwest Texas. They had a campus that was in Round 21 Rock, and I was taking classes part-time there. My 22 recollection is a little fuzzy, to be honest.</p> <p>23 But not long after that, I decided to 24 attend helicopter training. Not in the military, but 25 privately in Florida. And that may have been around</p>	<p>1 that prevented me from receiving my diploma. It took 2 me until 2014, as well as spending a few months in 3 Mexico in a total immersion kind of program, to get 4 to the point where I could pass that fourth-year 5 Spanish class and ultimately finish my degree.</p> <p>6 Q. So you have a diploma?</p> <p>7 A. Yes, sir.</p> <p>8 Q. That's good.</p> <p>9 During that period of time, were you 10 actually working for any company in particular?</p> <p>11 A. Yes. Initially right out of college --</p> <p>12 well, right before I graduated University of Texas, 13 it was Drilling Info, and I believe that was maybe 14 around 2011.</p> <p>15 Q. Okay.</p> <p>16 A. And I would guess I would have been there 17 for six to 12 months before I started working for 18 Lamar Technical Services out of Cedar Park. And that 19 would have been, I guess, around 2011 or '12. Again, 20 my dates aren't -- I'm not real sure. I would have 21 to look back at --</p> <p>22 Q. So let's pick up from the time you got your 23 degree.</p> <p>24 Who did you work with after that?</p> <p>25 A. I believe I was still employed with Lamar</p>
<p>Page 14</p> <p>1 2006.</p> <p>2 Q. How long did you do that?</p> <p>3 A. I was only there for, I would say, three 4 months before my parents ended up getting a divorce 5 and then my funding ran out and I returned home.</p> <p>6 Q. So did you ever do anything with the pilot 7 training, helicopter training?</p> <p>8 A. Unfortunately not, no, sir.</p> <p>9 Q. So going forward, you said you ended up 10 getting a degree from Texas in 2014?</p> <p>11 A. That is correct, yes, sir.</p> <p>12 Q. What kind of degree did you get?</p> <p>13 A. I got a bachelor of arts in geography.</p> <p>14 Q. Okay. So between 2006 and 2014, what did 15 you do?</p> <p>16 A. I believe I -- I think I drove a dump track 17 for a little over -- maybe a year or two before my 18 arrest. And then once I got arrested, I decided to 19 return to school and finish my degree. And I was 20 enrolled in school full-time I think until around 21 2010 or '11 and then started basically full-time 22 employment. All I lacked was Spanish. And in the 23 college of liberal arts at the time I was attending 24 the university, they required four years, and it was 25 really difficult for me. That was the last thing</p>	<p>Page 16</p> <p>1 Technical Services. I left them and went to work for 2 Rio Grande Electric Co-op in Alpine, Texas, maybe 3 around 2013.</p> <p>4 Q. Was that your first venture into the 5 electrical side of things?</p> <p>6 A. Lamar Technical Services was my first 7 venture. They are a contractor, and we worked a lot 8 for -- Guadalupe Valley Electric Co-op was our main 9 client.</p> <p>10 Q. And what did you do there?</p> <p>11 A. Guadalupe Valley Electric Co-op is situated 12 in Gonzales, and that was -- I believe kind of in the 13 Eagle Ford shale. And so, they had a lot of -- a lot 14 of oil field customers that needed high-voltage 15 power.</p> <p>16 So we designed and did -- I wouldn't 17 say engineering because we didn't have, you know, a 18 licensed engineer on staff, but we did basic design 19 for the co-op, told them, you know, "This is all the 20 poles and materials you need. This is how we would 21 like to construct this power line. This is where it 22 ends for the customer," and we would go out and stake 23 it in the field.</p> <p>24 Q. So what were you doing? What kind of work?</p> <p>25 A. Basic design, drafting, and staking.</p>

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Page 17

5 (Pages 14 - 17)

1 Q. And when you got to Rio Grande Electrical  
2 Co-op, what were you doing?  
3 A. The same thing.  
4 Q. Design, drafting, and staking?  
5 A. Yes, sir.  
6 Q. And for how long?  
7 A. I wasn't there very long before I tried to  
8 move over and become a lineman, and my boss at the  
9 time didn't allow me to do that. So I ended up  
10 resigning from there and got hired on with a company  
11 called Power Secure. And I believe that was around  
12 2013.  
13 Q. And what were you doing for Power Secure?  
14 A. I was an apprentice on a transmission bare  
15 hand crew working out in West Texas as a contractor  
16 for Oncore.  
17 Q. And for how long were you with Power  
18 Source -- Power Secure?  
19 A. I was with Power Secure roughly two years  
20 before I left and worked for Excel Energy.  
21 Q. All right. How long with Excel?  
22 A. About six months before I came back to  
23 Power Secure.  
24 Q. So you went back to Power Secure. Why did  
25 you make that change?

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1 companies were offering as far as compensation to go  
2 to Puerto Rico and work.  
3 Q. This is after the hurricanes?  
4 A. Yes, sir. After Hurricane Maria, yes, sir.  
5 And that got all of our attention. I wasn't with the  
6 group of guys that I initially knew that went down  
7 there first. I want to say they went right after --  
8 I can't recall when they went, but they told me how  
9 much they were making per day, and that got me really  
10 interested. And then I ultimately went through  
11 orientation in Amarillo and then ended up down there,  
12 as you said, in December of 2017.  
13 Q. Now, the one thing I do not have -- I don't  
14 have your offer letter or any of the documents  
15 related to your getting hired.  
16 A. Yes, sir.  
17 Q. And you don't have that either, I take it?  
18 A. I told Doug I need to look in some other  
19 places. If I do find that, I'll be sure to give it  
20 to him.  
21 Q. So what happened in your orientation? What  
22 were you told?  
23 A. From my recollection, Robert Malcom, who I  
24 think at the time was the president of Higher Power,  
25 had us all in maybe a conference room of a hotel and

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1 A. I was offered a promotion to become a  
2 project manager.  
3 Q. And what did you do as a project manager?  
4 A. Helped really assist with personnel,  
5 equipment, project controls, and financials with all  
6 of our transmission and substation projects, kind of  
7 for Oncore in the West Texas and metroplex area.  
8 Q. And how long did that job last?  
9 A. About a year and a half.  
10 Q. So I'm not sure where we are time-wise.  
11 A. I think this would have been towards the  
12 fall of -- well, 2016 project manager for Power  
13 Secure. Did that for a year and a half. So that  
14 would have put us late summer or fall of 2017.  
15 Q. That would have been roughly -- or getting  
16 close to the time you went to work for the Higher  
17 Power; is that correct?  
18 A. That is correct, yes, sir.  
19 Q. So when you went to work or you ended up  
20 going to work for Higher Power and going to Puerto  
21 Rico, how did that come about?  
22 A. Some of the guys that I had worked with at  
23 Power Secure, we were all kind of fed up with Power  
24 Secure and looking for next opportunity. And then  
25 word started getting around about what some of the

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1 visited with each one of us to determine our  
2 experience and then give us a classification,  
3 whether, you know, you were a journeyman, lineman, a  
4 foreman, or I guess some level of apprentice. And  
5 once you -- once they determined your classification,  
6 they had a day rate for, you know, that  
7 classification that they were bringing you on as.  
8 Q. So what was your classification?  
9 A. Apprentice.  
10 Q. And as an apprentice, what were you making?  
11 Do you recall?  
12 A. My day rate was \$700 a day.  
13 Q. Did they also tell you how much you were  
14 making an hour?  
15 A. I can't recall. I just remember 700 a day  
16 was what stuck with me.  
17 Q. So you're in Amarillo. You're with a bunch  
18 of guys.  
19 A. Yes, sir.  
20 Q. And did you know some of the guys you were  
21 with at that time?  
22 A. I don't believe so, no. Most of the guys  
23 that I knew were already on the island working.  
24 Q. All right. So when you got to the island,  
25 tell me how all that happened. Because you had to go

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6 (Pages 18 - 21)

1 from Texas to Puerto Rico. They obviously flew you  
2 in, I'm assuming?  
3 A. That's correct. I want to say it was  
4 either Amarillo to Houston -- and I can't remember if  
5 we had a stop in Miami before we ultimately arrived  
6 in San Juan at the major airport there.  
7 Q. Did you fly commercial?  
8 A. Yes, sir.  
9 Q. Okay. Now, prior to going, you know,  
10 having this experience with Higher Power, going to  
11 Puerto Rico, had you ever done any storm work before?  
12 A. Yes, sir. Once or twice while I was on  
13 that bare hand crew for Oncore Electric, but it  
14 wasn't -- it wasn't nearly the same kind of storm  
15 work, I would say. These were smaller outages from a  
16 smaller weather event.  
17 Q. Wasn't anything of the magnitude in --  
18 A. No, sir.  
19 Q. -- when you got to Puerto Rico?  
20 A. Certainly not.  
21 Q. So timing-wise now, let's sort of try to  
22 get down to specifics.  
23 You were hired in -- at least I'm  
24 showing your hire date early December of '17.  
25 A. Yes, sir.

Page 22

1 central mountain chain that's also oriented with an  
2 easterly-westerly kind of orientation. And any  
3 transmission circuit that went across that chain of  
4 mountains creates new challenges.

5 Typically when we build a high-voltage  
6 transmission line, if the terrain's pretty flat, you  
7 can do it all with ground equipment. When you start  
8 getting into terrain where it's steep, mountainous,  
9 then your regular rubber-tired vehicles don't do so  
10 well because of the steep inclination.

11 What we were told when we were down  
12 there is a lot of those circuits that they built  
13 originally were built with using helicopters. And by  
14 that, I mean that they used helicopters to transport  
15 smaller pieces of equipment, do some small  
16 excavations, and then fly these structures out, set  
17 them.

18 There was -- most of them had four  
19 guy-wires so you could plumb them up with the  
20 guy-wires, and then you would also use helicopters  
21 during stringing operations. Initially when you  
22 string conductor, you start by pulling a rope out.  
23 You pull it through a structure on these big wheels  
24 or dollies to the other end of your pull where you  
25 have your conductor. You'll attach that rope to the

Page 24

1 Q. So when you went from Amarillo, you get  
2 hired, you go to Puerto Rico, you land. Tell me what  
3 happens -- where you went, what you did, et cetera.  
4 A. There was a day or two of, I think, maybe  
5 some kind of in-processing before I ended up going to  
6 Ponce, which is where I met up with the rest of the  
7 guys that were now on this helicopter crew.  
8 Q. So you were on a helicopter crew?  
9 A. Yes, sir.  
10 Q. And that was in where?  
11 A. Initially it was in Ponce, I believe. Kind  
12 of on the southern end, more in the center of the  
13 island. I could be mistaken on the name of that. I  
14 would have to -- I guess I could Google it.  
15 Q. So where were you staying?  
16 A. In a hotel there close to downtown. I  
17 don't recall the name of the hotel.  
18 Q. Okay. Did you get all your meals there?  
19 A. All meals were offered with a sack lunch  
20 that -- yes, all meals were offered.  
21 Q. So the fact that you were on a helicopter  
22 crew, what does that mean?  
23 A. I don't know how familiar you are with that  
24 island. It's -- it looks roughly the shape of  
25 Tennessee. It's elongated and east-west. There's a

Page 23

1 conductor, and then you go in reverse -- you pull the  
2 rope, which pulls the conductor in. Once your  
3 conductor gets in, then you sag the conductor and go  
4 back and permanently attach it to all the structures.

5 Q. So what you're describing, is that  
6 something you actually did on the island at that  
7 time?

8 A. Yes, sir. Our role on the helicopter crew  
9 was to augment the ground crew. For the places that  
10 the ground crew could not go due to terrain, we went  
11 and basically did the same thing that they were going  
12 to do.

13 Q. So did you get materials to the mountainous  
14 terrain part of it with the helicopter?

15 A. Manpower, materials, tools, and equipment  
16 were all transported with the helicopter to wherever  
17 we needed to go.

18 Q. The helicopter is big enough to put a  
19 telephone pole on it?

20 A. We didn't transport structures. Let me  
21 back up and say there was more than one type of  
22 helicopter being utilized. Some helicopters had a  
23 larger capacity to lift a bigger load. The ones we  
24 were using were smaller, and they were used to  
25 transport men and tools and equipment.

Page 25

7 (Pages 22 - 25)

1 Q. So with respect to your prior helicopter  
2 training, did that have anything to do with why you  
3 got on this crew?  
4 A. No, sir.  
5 Q. Okay. So the fact that you got on a  
6 helicopter crew was just by chance?  
7 A. No, sir. It was from my relationship with  
8 the guys who went down before me, from working with  
9 them at Power Secure. I developed a relationship  
10 with these guys. They were the ones who told me how  
11 to come down, told me how much everybody was making.  
12 That's the reason I ended up down there on a crew.  
13 Q. Was there, like, a foreman that you  
14 reported to that --  
15 A. Yes, sir.  
16 Q. Was that Chad Menneke or --  
17 A. No, sir. That was Jake Fiorenti. He was  
18 our general foreman.  
19 Q. Spell his last name.  
20 A. I could be wrong. F-I-O-R-E-N-T-I.  
21 Actually, I might have him in my phone, if you want  
22 me to verify.  
23 Q. Just the spelling would be good.  
24 A. Sure. F-I-O-R-E-N-T-I, Fiorenti.  
25 Q. And I can go find the document, but there

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1 Q. With Higher Power?  
2 A. Yes, sir. And that was for a period of two  
3 to three months, maybe.  
4 Q. You were doing what now?  
5 A. Distribution work.  
6 Q. At their request or your request, or how  
7 did that work?  
8 A. Kind of at my request. There was a guy  
9 there on the island who was very experienced in  
10 distribution and told me if I went back with him to  
11 Corpus Christi, I could learn distribution and get my  
12 journeyman's certificate pretty quickly. However,  
13 that never really panned out.  
14 Q. What happened?  
15 A. He ended up quitting. And I asked if I  
16 could come back down to the island and they said yes,  
17 so I returned to the island.  
18 Q. Okay. And when you got back to the island,  
19 what were you doing then?  
20 A. I returned to the same helicopter crew. I  
21 believe at that point in time, we were at a place  
22 called Las Palmas. That was on the southeast coast  
23 of the island. We were staying in -- it's like a  
24 resort almost, or a gated community. Pretty  
25 substantial, had golf courses and a lot of condos and

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1 is a document that reflects a name of Chad Menneke,  
2 M-E-N-N-E-K-E.  
3 Do you know who that is?  
4 A. I believe he may have been our president,  
5 but that was when we were with Cobra. I really --  
6 I'm not too familiar. The last name is familiar. I  
7 just don't know his involvement when we initially  
8 went down.  
9 Q. So with respect -- you were staying at a  
10 hotel downtown, and did you continue to stay at that  
11 hotel the entire time you were there?  
12 A. No, sir. No.  
13 Q. Where did you go after that?  
14 A. Where did we go? My situation was slightly  
15 different because in the midst of that time -- I  
16 believe it was in February or March of '18 -- I would  
17 have to look at my time sheets to get the exact  
18 dates, but it should be reflected in my time sheets.  
19 But I left to go work in Corpus Christi learning  
20 distribution, which is something I hadn't had a  
21 chance to do before.  
22 Q. When you say you left, you quit?  
23 A. I didn't quit. I still was employed by  
24 Higher Power, but I left the island and began working  
25 in Corpus Christi.

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1 townhomes.  
2 Q. Sounds like it was nice.  
3 A. It was -- it was a step up from the hotel  
4 in Ponce, yes, sir. It wasn't terrible at all.  
5 Q. And were you still flying out every day to  
6 the job in the helicopter?  
7 A. Yes. The way we did our operations is we  
8 all had three-quarter to 1-ton pickup trucks with  
9 ladder racks, and our ladders and all of our tools  
10 and equipment would be on those trucks. We would  
11 leave every morning and go to a designated landing  
12 zone or what we called an LZ.  
13 Q. In the truck?  
14 A. In the truck. From there, the helicopter  
15 would arrive, and we would work out of that LZ almost  
16 as like a yard.  
17 Q. You said LD?  
18 A. LZ, which stood for landing zone.  
19 Q. Got you. In other words, you had all of  
20 your equipment and tools and everything on the truck?  
21 A. We would take it off the truck, attach it  
22 to the helicopter, and we would fly out and start  
23 going to work.  
24 Q. Got you. And the crew -- how many folks on  
25 your crew?

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8 (Pages 26 - 29)

1 A. There were maybe two to three crews under  
 2 Jake's supervision. The details on this are a little  
 3 fuzzy. I would say anywhere between four to eight  
 4 men on a crew.

5 Q. Were you on the same crew continuously?

6 A. No, sir. I think I switched crews once.

7 But then after that, it was the same crew until we  
 8 left the island.

9 Q. Let's try to get -- let's do this. Let's  
 10 get, like, an orientation on dates and timing when  
 11 you were on the island.

12 So we -- if we go back to the very  
 13 beginning --

14 A. Yes.

15 Q. That would have been in 20 --

16 A. '17.

17 Q. -- 17. When you started, it was -- yeah,  
 18 late '17?

19 A. Right.

20 Q. So when you got to the island, you were  
 21 first at the hotel?

22 A. In Ponce, yes, sir.

23 Q. Ponce, right?

24 A. I believe so.

25 Q. P-O-N-C-E?

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1 A. Yes, sir.

2 Q. And you know what Paycom is?

3 A. Yes, sir. Paycom was an app that we used  
 4 to, I guess, look at our time entries and see a  
 5 detailed pay stub, I believe.

6 Q. Right.

7 A. That's typically what I used it for. I  
 8 looked at my net pay when it was directly deposited.

9 Q. The main thing you wanted to know was what  
 10 your net was, correct?

11 A. Correct.

12 Q. But you would also look at your gross, too,  
 13 correct?

14 A. Well, can you define gross and net?

15 Q. Didn't you want to know what deductions  
 16 were being taken out of your check?

17 A. I never really paid that much attention, if  
 18 I'm being honest, to my deductions. It was what's  
 19 being deposited into my account.

20 Q. Okay. But if you go to Paycom, you were  
 21 able to look at your gross pay and your net pay --

22 A. I believe that information was available if  
 23 you wanted to look at it, yes, sir.

24 Q. All right. Go ahead.

25 A. So it appears -- looking at this on Page 4,

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1 A. Correct.

2 Q. So we go from late '17 until -- when was  
 3 it, March of '18?

4 A. I would have to refer to my time sheets. I  
 5 don't know that -- I don't have it in front of me,  
 6 but it should be broken down.

7 Q. I've got your time sheets, so I'll let you  
 8 see that.

9 A. Okay.

10 Q. You can tell from looking at the time  
 11 sheets?

12 A. Yes, sir.

13 Q. Well, let's just do that. Let's just look  
 14 at your -- no reason not to at this point.

15 (Exhibit 3 marked)

16 Q. (BY MR. NETTLES) All right. I'm going to  
 17 show you what's been marked as Exhibit Number 3.

18 And what document do you have in front  
 19 of you?

20 A. Looks like a time detail report. The date  
 21 range goes from December 6th of 2017 until April 30th  
 22 of 2019. I'm going to use this to reference when I  
 23 left the island to go do that distribution work.

24 Q. Have you seen this time detail report  
 25 before?

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1 beginning on the 27th of February 2018 is when I  
 2 began work in Corpus Christi. And looks like I may  
 3 have taken a week off prior to that. So maybe my  
 4 last day on the island appears to have been  
 5 February 17th of 2018.

6 Q. So I'm on Page 4. And if you look at --  
 7 starting on Tuesday, 2/27 --

8 A. Yes, sir.

9 Q. How can you tell that you were in Corpus?

10 A. So if you look at -- let's see what they  
 11 are calling this column here. Allocation, the column  
 12 in the center of the page.

13 Q. Okay.

14 A. As you can see, when I was on the island,  
 15 it says, you know, Higher Power Electrical, LLC  
 16 Unassigned.

17 Q. Right.

18 A. And then there is a different entry  
 19 beginning on the 27th of February, 2018, where it  
 20 says Higher Power Electrical -- Garrett Travis was my  
 21 foreman, and then it says AEP Western. We were  
 22 working for AEP, American Electric Power, another  
 23 large investor-owned utility.

24 Q. That was part of Higher Power, though?

25 A. You can see it still says Higher Power, but

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9 (Pages 30 - 33)

1 the client -- the folks we were doing the work for  
 2 was AEP.  
 3 Q. Okay. And you can see that went on all the  
 4 way until, it looks like, March 30th?  
 5 A. I believe --  
 6 Q. Oh, past that?  
 7 A. Yeah, past that.  
 8 Q. All the way to May, it looks like. Well,  
 9 no, even past that. Let's see.  
 10 A. Looks like June 11th is when I went back  
 11 down to the island.  
 12 Q. All right. So you start on 2/27 to  
 13 June 11th, right?  
 14 Is that fair?  
 15 A. Well, I wonder why it transferred to Steven  
 16 McLean. That's a gentleman I don't remember. You  
 17 know, it may have -- again, my recollection -- I  
 18 apologize, sir. It's not the best. I mean, if this  
 19 is correct, then it looks like I ended my time in  
 20 Corpus Christi on June the 10th and returned to  
 21 Puerto Rico on June the 11th.  
 22 Q. So from roughly 2/27/18 to June 10th, 2018,  
 23 you were in Corpus?  
 24 A. That's -- according to this time sheet. If  
 25 this time sheet is correct, then I would say that's

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1 MR. NETTLES: Mark this as the next  
 2 exhibit, please.  
 3 Q. (BY MR. NETTLES) I'm going to show you  
 4 what is being marked as Exhibit 4, which are  
 5 plaintiff's responses to defendants' discovery.  
 6 A. Okay.  
 7 MR. NETTLES: Doug, are you going to  
 8 get him to swear to these things at some point?  
 9 MR. WELMAKER: Yeah.  
 10 Q. (BY MR. NETTLES) If you look at -- there  
 11 is a damage calculation that's being made here, and  
 12 if you look at -- starting in February of '18 that it  
 13 shows zero across --  
 14 A. Yes, sir.  
 15 Q. But if you go down to May of '18, it  
 16 starts -- at the end of May, it starts picking up  
 17 damages again.  
 18 A. Yes, sir.  
 19 Q. So will you and your lawyer verify this  
 20 issue on when you were in Corpus and when you got  
 21 back and what the damages are?  
 22 MR. WELMAKER: Yeah. We're going to  
 23 have to do that. I mean, I'll tell you what my  
 24 thinking was off the record. But, yes, we will agree  
 25 to do that.

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1 what happened, yes, sir.  
 2 Q. All right. So from the time period before  
 3 when you started in the end of '17, that period of  
 4 time until 2/27/18, you were working out of Ponce?  
 5 A. Correct. Yes, sir.  
 6 Q. And so, we've got roughly a period of --  
 7 December, January, February. So about three months,  
 8 right?  
 9 A. Correct. Yes, sir.  
 10 Q. So tell me -- let's talk about these first  
 11 three months.  
 12 A. Okay.  
 13 Q. Let's break it down this way. You got the  
 14 first three months. That's Period 1. Period 2,  
 15 you've got the time in Corpus Christi.  
 16 Now, your time in Corpus Christi  
 17 doesn't involve this lawsuit at all, correct?  
 18 A. No, sir. Not to my understanding.  
 19 Q. All right. So -- and that goes until  
 20 June 2018?  
 21 A. Yes, sir. According to this Paycom, these  
 22 team sheets, that's what it indicates.  
 23 (Exhibit 4 marked)  
 24 Q. (BY MR. NETTLES) So I'm going to show you  
 25 one other thing while we're doing this just to --

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1 MR. NETTLES: Okay. I think that's  
 2 fine otherwise.  
 3 MR. WELMAKER: Okay.  
 4 Q. (BY MR. NETTLES) So with respect to --  
 5 let's go -- let's talk about the third period when  
 6 you got back from Corpus. Let's just use June of  
 7 2018, okay?  
 8 A. Okay.  
 9 Q. We'll figure out what the exact time period  
 10 was. But when you got back from Corpus, that's when  
 11 you were staying in this gated community, correct?  
 12 A. Correct. Yes, sir.  
 13 Q. And were you at that location in terms of  
 14 your crew until you left?  
 15 A. No, sir.  
 16 Q. All right. So how long were you at that  
 17 spot?  
 18 A. I would have to refer back. I believe I  
 19 have some previous e-mails where we -- you know,  
 20 again, referring back to the date in July of 2018  
 21 when we transitioned from our day rates to hourly  
 22 overtime with a per diem, after that time period in  
 23 July, we were responsible for our own housing. And  
 24 initially we remained in that gated community, if I  
 25 had to guess, another two to four months. And then

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10 (Pages 34 - 37)

1 from there we moved to a more centrally-located city  
 2 called Caguas, and that is where --  
 3 Q. Spell that.  
 4 A. Man, that's a good question. I'm guessing  
 5 C-A-G-U-A-S. I remained in Caguas until we left the  
 6 island in April of 2019.  
 7 Q. All right. So I think in fairness to what  
 8 we're doing here, we're going to focus on the time  
 9 periods that you're seeking damages in this case.  
 10 A. Yes, sir.  
 11 Q. So that's what I'm going to ask about. And  
 12 let's talk about the period -- you know, the first  
 13 three months that you were there.  
 14 A. Yes, sir.  
 15 Q. And what I want to talk about is the -- a  
 16 little bit about your orientation and what you did on  
 17 a daily basis.  
 18 MR. NETTLES: Why don't we take just a  
 19 real short break?  
 20 MR. WELMAKER: Yeah, yeah.  
 21 (Recess from 10:27 a.m. to 10:39 a.m.)  
 22 Q. (BY MR. NETTLES) We're back on the record.  
 23 A. Yes, sir.  
 24 Q. All right, sir. Let's talk about -- you  
 25 know, I -- I told you that I wanted to talk about the

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1 A. If they did, I don't recall.  
 2 Q. All right. What about in terms of -- well,  
 3 let me ask it another way.  
 4 Were you working sunrise to sunset?  
 5 How were you working?  
 6 A. Typically, we would start our day well  
 7 before sunrise, usually around, you know, anywhere --  
 8 depending on where our landing zone was and how long  
 9 of a trip that was -- because it varied. You know,  
 10 we operated out of Ponce, but we would go to various  
 11 different locations.  
 12 Q. Right.  
 13 A. So depending on where the landing zone was  
 14 and what time we were going to liaise with the  
 15 aircraft, anywhere, I would say, between 4:00 to  
 16 6:00 a.m., which my recollection was before sunrise  
 17 every morning that we were working. And then we  
 18 would work typically until dark.  
 19 Q. You wouldn't take off on the helicopter  
 20 before sunrise, would you?  
 21 A. So this kind of brings up something unique  
 22 about our work in that I believe there's federal  
 23 aviation regulation that stipulates you cannot do the  
 24 type of work we were doing, which I believe the FAA  
 25 refers to as human external cargo, during nighttime.

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1 first three months --  
 2 A. Yes.  
 3 Q. -- basically, but let's also talk about  
 4 your orientation.  
 5 So when you were -- went through  
 6 orientation and your classification and what you were  
 7 going to make, you understood that it was 700 bucks a  
 8 day, right?  
 9 A. Yes, sir. That's correct.  
 10 Q. Did they ever talk to you about an hourly  
 11 rate, overtime, how many days a week you would work,  
 12 how many hours a day you would work, and all that in  
 13 the beginning?  
 14 A. You're referring to during orientation?  
 15 Q. Yes.  
 16 A. My only take-away from orientation was --  
 17 at least to the point that I can recall now -- was my  
 18 specific day rate of \$700 per day. I'm struggling to  
 19 remember -- I want to say maybe they wanted us to  
 20 work six weeks continuously before we had a break,  
 21 but I don't feel very confident about that. My main  
 22 take-away was my day rate.  
 23 Q. So there weren't any other take-aways? How  
 24 many hours a day were you working? Did they talk to  
 25 you about that?

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1 It has to be done during daytime hours or daylight  
 2 hours.  
 3 So to answer your question, we  
 4 couldn't do any flying or work until official  
 5 daylight time started.  
 6 Q. Okay. It was -- I'm just trying to think  
 7 of the time of the year. Was Puerto Rico on Daylight  
 8 Savings Time, or do you know?  
 9 A. I don't recall if they observed that or  
 10 not. I think that they may have, but I don't -- you  
 11 know, in today's modern age where our cell phones  
 12 automatically account for it, I don't know that we --  
 13 you know, I don't recall noting that if we did  
 14 change.  
 15 Q. Okay. So the other thing we talked about  
 16 earlier was your earnings statement, right?  
 17 MR. NETTLES: Let's mark this, too,  
 18 please.  
 19 Q. (BY MR. NETTLES) I'm going to show you now  
 20 what's been marked as Exhibit 5.  
 21 (Exhibit 5 marked)  
 22 Q. (BY MR. NETTLES) So if you look at the way  
 23 this is set up, the very first page on this exhibit,  
 24 I believe, is going to reflect your last pay period.  
 25 A. Okay.

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11 (Pages 38 - 41)

<p>1 Q. Does that appear to be correct?</p> <p>2 A. It appears to be correct. Is it worth 3 mentioning that this is outside of the window that 4 we're talking about today?</p> <p>5 MR. WELMAKER: Just wait for him to 6 ask you the questions.</p> <p>7 Q. (BY MR. NETTLES) I'm going to talk about 8 the window, but I'm just trying to orient you to the 9 document --</p> <p>10 A. Yes, sir.</p> <p>11 Q. -- that this is the last pay period.</p> <p>12 A. Yes, sir.</p> <p>13 Q. If you go look at the very first page -- 14 excuse me.</p> <p>15 If you look at the very last page, 16 which has got a Bates label at the bottom where it 17 says FED000213 -- do you see that?</p> <p>18 A. Yes, sir. I see this page.</p> <p>19 Q. All right. And that would have been a page 20 reflecting what should be your first pay period, 21 correct?</p> <p>22 A. Appears to be, yes, sir.</p> <p>23 Q. So let's go to -- where I want you to turn 24 now is to go to Page FED000207.</p> <p>25 A. 207? Okay.</p>	<p>1 You were working -- if you were to 2 take \$700 a day and multiply it times 14, you would 3 get 9800, correct?</p> <p>4 A. Yes, sir. I would agree with that math.</p> <p>5 Q. All right. Here, they have a pay reflected 6 at 9856, which is slightly different, correct?</p> <p>7 A. Yes, that is a different figure.</p> <p>8 Q. And if you look down at the -- that's why I 9 asked you whether you had ever looked at your 10 deductions for Medicare, it says social security, 11 Puerto Rico withholding, Puerto Rico disability. 12 Those are taxes. Excuse me. And then there are 13 deductions for dental, FSA, medical, all of these 14 different things, correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Were you aware that there was money being 17 taken out for these type of deductions?</p> <p>18 A. Yes, I was aware that there were deductions 19 and taxes. Yes, sir.</p> <p>20 Q. All right. And you obviously -- strike 21 that.</p> <p>22 Did you ever get a paper -- I say a 23 paper -- paycheck or anything that would reflect this 24 information in the mail or by paper or anything of 25 the sort?</p>
<p>Page 42</p> <p>1 Q. And this appears to be a pay period during 2 the time that you're seeking damages in the case, 3 correct?</p> <p>4 A. Yes, sir. It does appear to be that way.</p> <p>5 Q. All right. And so, this is a pay date of 6 2/23/18?</p> <p>7 A. Yes.</p> <p>8 Q. And the period start is 2/5/18 to 2/18/18, 9 correct?</p> <p>10 A. That matches what I see, yes, sir.</p> <p>11 Q. All right. Now, these are from the Pay.com 12 records, correct? If you were to go into your app 13 and look at your pay where it has -- and I know you 14 said you only looked at the net pay, but have you 15 ever gone into -- or did you ever go into the app and 16 at least look at the data that was available?</p> <p>17 A. I don't recall. To be honest with you, I 18 really -- I don't remember.</p> <p>19 Q. Do you ever remember looking at anything 20 that reflected an earning -- earnings 21 regular/overtime, your rate?</p> <p>22 A. If I did, it would have been a very seldom 23 occasion. Just nothing stands out to me.</p> <p>24 Q. All right. Let's do this. This is pretty 25 easy math.</p>	<p>Page 44</p> <p>1 A. The only paper document I can recall would 2 have been my W-2 for taxes.</p> <p>3 Q. Okay.</p> <p>4 A. I believe everything was electronic through 5 that app, but I -- I can't be certain.</p> <p>6 Q. But your W-2 that you got for taxes 7 wouldn't -- was there anything on your W-2 that would 8 reflect whether you were getting paid by the hour or 9 you were getting paid as a salary or anything of that 10 sort?</p> <p>11 A. I'm not familiar enough with the form. I 12 want to say it shows maybe your gross earnings, but I 13 don't know if it was broken down in that way that 14 you're asking about.</p> <p>15 Q. All right. So other than your W-2, was 16 there anything else that you would have gotten in a 17 paper format from the company, as you recall?</p> <p>18 A. To my recollection, I don't recall any 19 other paper document indicating any detailed pay.</p> <p>20 Q. So when you got back -- I say when you got 21 back. When you -- let's say that at some point, 22 whether you were paying your taxes or whatever you 23 were doing, did you ever go back and look at the 24 Pay.com or print out anything from Pay.com to reflect 25 what you were getting on a -- I guess you got paid,</p>

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12 (Pages 42 - 45)

<p>1 what, every two weeks?</p> <p>2 A. I think that is correct, yes, sir.</p> <p>3 Q. Did you ever go back and look at during</p> <p>4 that two-week period how your pay was broken up?</p> <p>5 A. I'm trying to recall. And I think you said</p> <p>6 Pay.com. It was Paycom.</p> <p>7 I don't recall printing anything out,</p> <p>8 to be honest with you, sir. I think any time I</p> <p>9 referenced that, it was either what was going to be</p> <p>10 directly deposited, as I said before, you know, my</p> <p>11 net pay distribution after my taxes and deductions,</p> <p>12 as well as looking at my personal checking account</p> <p>13 where it was deposited.</p> <p>14 Q. All right. So in the beginning -- let's</p> <p>15 talk about your daily activity from the very</p> <p>16 beginning on the -- past orientation.</p> <p>17 But when you were -- for the first</p> <p>18 three months when you were leaving before sunrise,</p> <p>19 did you-all have a safety meeting every day?</p> <p>20 A. I believe that we -- there was a meeting</p> <p>21 every morning. And then once we arrived to our</p> <p>22 landing zone, we would conduct a job hazard or job</p> <p>23 safety analysis and all sign it. There was meetings</p> <p>24 in the morning. That was mainly for our on-site</p> <p>25 management, our foremen, and our general foremen to</p>	<p>1 basically seven days a week at that time in the very</p> <p>2 beginning, correct?</p> <p>3 A. Yes, sir. That is correct.</p> <p>4 Q. And were you ever -- and we talked about</p> <p>5 the fact that you were working sun up until sundown.</p> <p>6 So it sounds like, based on what you're telling me,</p> <p>7 that it was more than 12 hours.</p> <p>8 A. There were obviously variations depending</p> <p>9 on where we were going. And more so for us, weather</p> <p>10 played a big factor in -- if it was too windy, if it</p> <p>11 was raining, if it was cloudy, it made it much more</p> <p>12 difficult for us to do our work out of the</p> <p>13 helicopter.</p> <p>14 Q. So what did you do if you didn't do your</p> <p>15 work out of the helicopter?</p> <p>16 A. We would remain on-site. We would assist</p> <p>17 the ground crew if necessary or basic housekeeping:</p> <p>18 Reorganizing our trucks, cleaning and inspecting our</p> <p>19 tools. We always found usually something to do</p> <p>20 during the workday if we weren't able to do what we</p> <p>21 were normally doing.</p> <p>22 Q. So in the beginning -- at the beginning of</p> <p>23 the day and at the end of the day, did they have a</p> <p>24 system in place to account for everybody? Everybody</p> <p>25 was checking in and --</p>
<p style="text-align: right;">Page 46</p> <p>1 discuss what we were needing to do that day. We</p> <p>2 weren't a part of that meeting, but there were</p> <p>3 meetings every morning.</p> <p>4 Q. But you would have a -- what you would call</p> <p>5 more of a safety meeting at the landing zone?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Before you went out?</p> <p>8 A. Correct. Before we began work, I would</p> <p>9 say.</p> <p>10 Q. All right. So were you ever involved in</p> <p>11 driving the truck or handling any type of equipment</p> <p>12 yourself?</p> <p>13 A. I would say I didn't handle any equipment.</p> <p>14 I did frequently drive one of our company trucks</p> <p>15 with, as I said before, our ladders and tools and</p> <p>16 rigging.</p> <p>17 Q. And when you say "frequently," were you</p> <p>18 actually in charge of doing that?</p> <p>19 A. I was not in charge. Our foreman was in</p> <p>20 charge, but we would frequently rotate -- whoever</p> <p>21 drove out to the landing zone in the morning would</p> <p>22 typically not be the same person who drove from the</p> <p>23 landing zone back in the evenings. We would rotate</p> <p>24 our drivers.</p> <p>25 Q. So did you ever -- you were working</p>	<p>1 A. If they did, it was not known to me.</p> <p>2 Q. Didn't they want to make sure that, you</p> <p>3 know, if you had a small crew, four- to six-man crew,</p> <p>4 that everybody was on board, meaning that they were</p> <p>5 there and going to be on the helicopter? Point being</p> <p>6 if somebody was sick and you needed to replace that</p> <p>7 person, certainly that was a known quantity, correct?</p> <p>8 A. I would say that given our smaller crew</p> <p>9 size, accountability was very easy to do.</p> <p>10 Q. Okay. Did you take off holidays, sick</p> <p>11 days, anything of the sort?</p> <p>12 A. While we were on the island, no. And as a</p> <p>13 matter of fact, I recall working on Christmas Day of</p> <p>14 2017.</p> <p>15 Q. How about sick -- did you ever get sick on</p> <p>16 the island?</p> <p>17 A. Not that I can recall, no, sir.</p> <p>18 Q. Okay. Did you ever return home for any</p> <p>19 vacation period when you were there?</p> <p>20 A. I believe so. I believe -- I'm not as</p> <p>21 confident, but I believe that I returned home -- I'm</p> <p>22 not real confident on that.</p> <p>23 Q. Okay. Was there a company out there called</p> <p>24 Tech Serve?</p> <p>25 A. Yes.</p>

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13 (Pages 46 - 49)

1 Q. And what did they do?  
 2 A. I believe that they were inspecting our  
 3 work. But other than that, I don't really know much  
 4 more about them. But they were on the island, yes,  
 5 sir.  
 6 Let me add to that that during the  
 7 early period, I don't recall seeing them around.  
 8 That wasn't until later in our time on the island  
 9 that we began to see them more. So I'm not sure when  
 10 they got there and began their work, time frame-wise.  
 11 Q. Were they documenting stuff, or what were  
 12 they -- taking pictures?  
 13 A. I can't speak to their scope of work or  
 14 their contract. I'm actually employed now as an  
 15 inspector, so I'm familiar with the job. I just  
 16 don't know when they got there and what their scope  
 17 of work would have been in regards to what we were  
 18 doing.  
 19 Q. Okay. Now, your main complaint in this  
 20 case is that you were not getting paid for  
 21 overtime -- is that correct -- during a period of  
 22 time?  
 23 A. Yes, sir.  
 24 Q. How did you know that -- after you quit the  
 25 company, before this lawsuit was filed, how did you

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1 you hired him, right?  
 2 A. I would imagine. I don't recall at the  
 3 moment.  
 4 Q. Well, let's put it this way. You're not  
 5 paying him by the hour, correct?  
 6 A. I'm not aware of Mr. Welmaker's  
 7 compensation for his time on this case, to be honest  
 8 with you.  
 9 Q. Well, doesn't it work like if he's not  
 10 successful getting you money, that that's the way  
 11 you're going to get money and the way he's going to  
 12 get paid?  
 13 A. Again, I am no expert in the law. I don't  
 14 know if we fail to win our case the accounting for  
 15 that or, you know, if we win -- that's beyond me. I  
 16 can't speak to that.  
 17 Q. And you don't have any idea -- well, you at  
 18 least have an idea based on these interrogatories  
 19 what sort of damages are being claimed there?  
 20 A. That is correct, yes, sir.  
 21 Q. And before that, did you have any idea of  
 22 what your damages were?  
 23 A. No, sir. I had no idea at all.  
 24 Q. Okay. When you were on the island and went  
 25 to work for \$700 a day, had you ever made \$700 a day

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1 get in touch with your lawyer and know there was a  
 2 lawsuit or people were bringing lawsuits? What  
 3 brought it to your attention?  
 4 A. As I recall, this isn't something that I  
 5 solicited on my own. A group of us became aware that  
 6 it was against the law for Higher Power -- and again,  
 7 I'm no expert in the law, but we became aware that  
 8 paying us a day rate was incorrect, I guess. And  
 9 then that's when I expressed interest in joining the  
 10 lawsuit.  
 11 Q. So how did you hear about it? I guess  
 12 that's what I'm --  
 13 A. Word of mouth, I would say.  
 14 Q. Okay. And how did you know to call  
 15 Mr. Welmaker, your lawyer?  
 16 A. As I recall, I believe it started with a  
 17 gentleman named Dale O'Neal, and then Mr. Welmaker  
 18 either contacted me -- I can't recall if I contacted  
 19 Mr. Welmaker or he contacted me sometime thereafter.  
 20 Q. Okay. Now, your agreement with  
 21 Mr. Welmaker is what we call a contingent fee  
 22 agreement; is that correct?  
 23 A. I am unfamiliar and unaware what kind of  
 24 agreement --  
 25 Q. Well, you had to have signed something when

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1 before?  
 2 A. No, sir.  
 3 Q. Was that, like, maybe twice -- two or three  
 4 times the money you had ever made in a day?  
 5 A. It was substantially more than I had made  
 6 stateside working in this industry.  
 7 Q. All right. When you were on the island,  
 8 did you ever complain to anybody that you were not  
 9 getting paid overtime?  
 10 A. Not that I can recall, no, sir.  
 11 Q. When you were on the island, did you ever  
 12 recall when you looked at the Paycom app to look at  
 13 your money that there was -- it was reflected that  
 14 you were getting paid hourly and overtime pay?  
 15 MR. WELMAKER: Objection. Form.  
 16 Asked and answered. You can go ahead and answer.  
 17 A. Could you -- the question is a bit  
 18 confusing to me.  
 19 Q. (BY MR. NETTLES) So you've looked at --  
 20 let's go back to Exhibit 5.  
 21 A. Yes, sir.  
 22 Q. You've looked at the -- and let's go back  
 23 to the page that I had talked to you about earlier.  
 24 A. 207?  
 25 Q. Right. If you were to go into the app back

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14 (Pages 50 - 53)

<p>1 then and you looked at the earnings -- first of all,      2 if you look at the very top right-hand corner, it      3 reflects hourly, correct?</p> <p>4 A. I do see an hourly rate, yes, sir.</p> <p>5 Q. All right. And if you go down and look at      6 Earnings, it has regular and overtime, correct?</p> <p>7 A. Yes, I would agree with that.</p> <p>8 Q. All right. And the overtime is -- I      9 believe it's going to -- if you look at it, it will      10 be one and a half times the regular, correct, if you      11 do the math?</p> <p>12 A. Well, in my experience in this line of      13 work, yes, I would say -- I would agree in saying      14 overtime is usually time-and-a-half. However, I      15 would also say I have never been paid an hourly rate      16 that is reflected here with the 11 cents and then 67      17 cents. Usually it's a flat rate for my hourly pay      18 and then obviously, as you mentioned before,      19 time-and-a-half for your overtime.</p> <p>20 Q. All right. So I guess what I'm asking is      21 that had you gone into the app, you would have been      22 able to look at what would have had -- your taxes,      23 deductions, gross pay, net pay, correct?</p> <p>24 A. If that information was available, then      25 yes, sir, I should have been able to see that.</p>	<p style="text-align: center;">Page 54</p>	<p>1 sheet, a daily time sheet, which I have done --      2 outside of this period of work, always kept a daily      3 time sheet in this line of work.</p> <p>4 Q. Talking about stateside?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Have you ever been -- strike that.</p> <p>7 Have you ever worked outside of the      8 States for a storm or other catastrophe any other      9 time other than in Puerto Rico?</p> <p>10 A. No, sir.</p> <p>11 Q. Have you ever worked any storm-related      12 issues -- whether they were hurricanes or earthquakes      13 or anything else -- stateside?</p> <p>14 A. I have worked on storm projects. However,      15 as I mentioned before earlier, they were minuscule in      16 comparison to this event.</p> <p>17 Q. So let me just make sure I understand your      18 testimony.</p> <p>19 You're not testifying that the data      20 that's on Exhibit 5 was not available. You're just      21 saying it's not something you looked at?</p> <p>22 A. I would say that it's not something that I      23 recall studying. I can't speak to the availability      24 of the information, but I would -- I would imagine it      25 was available.</p>	<p style="text-align: center;">Page 56</p>
<p>1 Q. But that is something that you looked at      2 from time to time?</p> <p>3 A. I would say my -- when I used the app to      4 look at my pay, it was my net pay, what can I expect      5 to be coming into my account. I generally didn't      6 look at gross or deductions. It was always, like,      7 what is the end pay coming into my account?</p> <p>8 Q. So my only question is this: Had you      9 wanted to look at all of this data, it was available      10 at that time?</p> <p>11 A. If I -- if I wanted to double check that my      12 day rate times the number of days equaled my gross as      13 shown here then, yes, I should have been able to      14 check that.</p> <p>15 Q. And had you done that, you would have seen      16 regular, overtime, and the same numbers you're      17 looking at here?</p> <p>18 A. I will speak for myself, but there were      19 times when I would check with my co-workers about      20 does the rough accounting make sense? Are we getting      21 paid what they promised to pay us? And that was      22 always, you know, gross figures. We, to my      23 recollection, did not pay attention to an hourly      24 rate.</p> <p>25 And moreover, we never kept a time</p>	<p style="text-align: center;">Page 55</p>	<p>1 Q. And again, just to make sure that I'm      2 clear, when you got back home to the States after      3 this job, did you ever go, for tax purposes, and      4 print out the data that was on Paycom?</p> <p>5 A. No, sir.</p> <p>6 Q. All right. So when you did your taxes,      7 basically you would get your W-2 and that would be      8 it?</p> <p>9 A. That is correct, yes, sir.</p> <p>10 Q. Okay. So the other document that we looked      11 at was the earnings statement, correct, Exhibit 3?</p> <p>12 A. Exhibit 3 appears to be our time detail      13 report from Paycom.</p> <p>14 Q. Now, is this something you ever looked at?</p> <p>15 A. If I did, it would have been to count the      16 number of days that I was receiving my day rate. I      17 don't -- it doesn't look too familiar to me, to be      18 honest. Exhibit 5 looked maybe slightly more      19 familiar.</p> <p>20 Q. Okay. So you were never concerned whether      21 they had you down for 16 hours or 12 hours or how      22 many hours in a day?</p> <p>23 MR. WELMAKER: Objection. Form.</p> <p>24 MR. NETTLES: I'm sorry?</p> <p>25 MR. WELMAKER: Form objection.</p>	<p style="text-align: center;">Page 57</p>

1 A. I referred to this to make sure that I was  
 2 compensated for my work during that day that I was on  
 3 the island.  
 4 Q. (BY MR. NETTLES) When you say "during that  
 5 day," you mean a particular day?  
 6 A. Yes.  
 7 Q. So you weren't looking at whether they had  
 8 you down for 112 hours or --  
 9 A. No, sir. I was not concerned about my  
 10 hours. I don't know any of my co-workers who were  
 11 concerned about checking the validity of our hours.  
 12 Q. Were you ever in a situation where you had  
 13 to go back out after you got back to the hotel or to  
 14 your place you were staying?  
 15 A. For work?  
 16 Q. Yes, sir.  
 17 A. No, sir.  
 18 Q. Was that a potential expectation, that you  
 19 would be called back out?  
 20 A. Not that I was aware of. And to that  
 21 point, we would frequently go to happy hour after  
 22 work or have drinks together with no expectation we  
 23 would be returned to work until the next morning.  
 24 MR. NETTLES: Doug, why don't we take  
 25 a minute, get off the record, let me see if I have

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1 A. Yes.  
 2 Q. And then if you go over to Exhibit 7, your  
 3 income was 178,652.57, correct?  
 4 (Exhibit 7 marked)  
 5 A. That's what mine says, yes, sir.  
 6 Q. (BY MR. NETTLES) Have you ever made that  
 7 much money before in any other year?  
 8 A. I don't recall, no, sir. I don't believe I  
 9 did.  
 10 Q. Okay. So that would have been, at least to  
 11 date -- lifetime working, that would have been the  
 12 most money you've made in one year?  
 13 A. To date?  
 14 Q. To date. 12 months.  
 15 A. No, sir.  
 16 Q. You made more than that?  
 17 A. Yes.  
 18 Q. Where would that be?  
 19 A. Now.  
 20 Q. How much are you making a year now?  
 21 A. I think my W-2 from last year was somewhere  
 22 around 260 for Box 1. \$260,000.  
 23 Q. Okay. That's good. 2023?  
 24 A. Correct. Yes, sir.  
 25 Q. All right. How about in 2022? How did you

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1 anything else?  
 2 MR. WELMAKER: Okay. Sure.  
 3 (Recess from 11:10 a.m. to 11:12 a.m.)  
 4 Q. (BY MR. NETTLES) Just in terms of the  
 5 amount of time you were working, basically it was  
 6 like one year, four months or so for the company?  
 7 A. You're asking about the total time I was  
 8 there?  
 9 Q. Yes, sir.  
 10 A. Yes, sir. I believe that's correct.  
 11 Around a year and a half, slightly under that.  
 12 Q. You worked the entire year of 2018?  
 13 A. Well, I was in -- recall the two to three  
 14 months I left Puerto Rico.  
 15 Q. Right, for the distribution.  
 16 A. Yes, sir. With the exception of that, yes.  
 17 Q. Right. I'm going to mark this here  
 18 eventually, but your W-2 -- do you recall how much  
 19 money you made working for Higher Power in 2018?  
 20 A. I do not, no, sir.  
 21 Q. All right. Let's mark this as one exhibit.  
 22 (Exhibit 6 marked)  
 23 Q. (BY MR. NETTLES) So if you look at  
 24 Exhibit 6, you can see that your income was  
 25 12,841.43?

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1 do?  
 2 A. I would have to refer to my W-2. I don't  
 3 recall that. The reason I recall '23 is I just, you  
 4 know, did my taxes.  
 5 Q. Got you. Well, let me ask the question  
 6 another way.  
 7 Up until 2018, had you ever made that  
 8 much money before?  
 9 A. I don't believe so, no, sir.  
 10 Q. Okay. Since 2018, obviously you did last  
 11 year.  
 12 A. Yes.  
 13 Q. Was there any other year you made over  
 14 200,000?  
 15 A. I would say from the time I began as a  
 16 contract inspector that I had made more than I made  
 17 in 2018.  
 18 Q. As an inspector?  
 19 A. Yes, sir. I would say starting from the  
 20 end of 2019, the beginning of 2020 -- since that  
 21 time, I've made more than I did as reflected on my  
 22 W-2 in 2018.  
 23 Q. So you're now -- currently that's your  
 24 role, as a contract inspector?  
 25 A. Currently my role is an inspector for the

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16 (Pages 58 - 61)

1 utility. Two years ago before I hired on with the  
2 utility, I was a contract inspector. So now I am an  
3 in-house inspector.

4 Q. And what do you do as an inspector?

5 A. Our roles consist of going to check on  
6 various transmission projects, as well as substation  
7 projects, ensuring that those projects are performed  
8 safely, that they conform to the design  
9 specifications of our engineering department, and to  
10 help aid in any hurdles or setbacks that may arise.

11 MR. NETTLES: All right. Now let's  
12 get off the record and let me see if I have anything  
13 else.

14 MR. WELMAKER: Okay.

15 MR. NETTLES: Just give me five  
16 minutes.

17 (Recess from 11:17 a.m. to 11:26 a.m.)

18 MR. NETTLES: I'm not going to mark  
19 this. This is an exhibit that was previously marked,  
20 Doug, in another deposition. And it's got -- it's  
21 marked as Exhibit 151 before, and it's a -- it shows  
22 the wage scale.

23 Q. (BY MR. NETTLES) Did you ever see this or  
24 something similar to this during your orientation?

25 A. I believe it was similar.

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1 your lawyers.

2 A. No, sir. Not anybody else.

3 Q. Dale O'Neal, who is he?

4 MR. WELMAKER: He's the referring  
5 attorney that got in touch with me.

6 Q. (BY MR. NETTLES) All right.

7 A. Yes.

8 Q. So he's a lawyer?

9 MR. WELMAKER: Yes.

10 A. To answer your question, Mr. Nettles, no  
11 one besides the attorneys I've discussed this case  
12 to -- with.

13 Q. (BY MR. NETTLES) Do you know any of the  
14 other plaintiffs?

15 A. I don't believe so, no.

16 Q. You never worked with them, don't know them  
17 individually?

18 A. I don't know that I've seen everyone's  
19 name.

20 Q. Right.

21 A. But the few that I have seen I don't think  
22 were on our crew, so I don't know them.

23 Q. Okay. So it's fair to say that there's  
24 nobody that was on your crew that you know that's in  
25 this lawsuit?

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1 Q. Where you would see a per day and a per  
2 hour rate?

3 A. Yes, sir. Per day is what I paid attention  
4 to.

5 Q. Right. But do you remember seeing  
6 something that said "per hour Puerto Rico storm"?

7 A. No. I remember paying attention to the per  
8 day. If we're talking in, you know, regards to my  
9 orientation before I left stateside, yes, sir, that's  
10 what I was focused on.

11 Q. You're not saying you didn't see this. You  
12 just don't recall?

13 A. Right. I just don't recall.

14 Q. So with respect to your deposition and  
15 getting ready for it and whatnot, did you meet with  
16 your lawyer in advance?

17 A. Yes.

18 Q. All right. Did you talk to anybody that  
19 has been involved in this lawsuit -- or have you at  
20 any time?

21 A. The only people I've talked to is I had  
22 some e-mail correspondence with Dale O'Neal, and then  
23 obviously more recently with my attorney, Doug  
24 Welmaker.

25 Q. Let's talk about the people that are not

1 A. Not to my knowledge.

2 Q. Okay. Now, were you aware when this  
3 complaint was filed that there were certain  
4 plaintiffs that had, quote/unquote, an arbitration  
5 clause in their contract and they arbitrated their  
6 case and the case was stayed with respect to a  
7 certain number of folks?

8 A. If I was informed of that, I don't recall  
9 it.

10 Q. Okay. Do you know why it's taken so long  
11 for your case to get to court?

12 A. No, sir. I'm unaware.

13 Q. And you're unaware that it was stayed and  
14 the stay was lifted and it's now going to trial?

15 A. I believe Doug has told me it's possibly  
16 going to trial.

17 Q. Well, it's -- there's what is,  
18 quote/unquote, a trial setting. Are you aware of  
19 that?

20 A. As I said before, Doug has made mention  
21 that there is a possibility of a trial. Again, he  
22 may have worded it the way you did. I just -- I'm  
23 unfamiliar with legal terminology.

24 MR. NETTLES: Okay. Doug, I'm going  
25 to pass the witness.

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17 (Pages 62 - 65)



1        \_\_\_\_ was requested by the deponent or a party  
2 before the completion of the deposition and that the  
3 signature is to be before any notary public and returned  
4 within 30 days (or \_\_\_\_\_ days, per agreement of counsel)  
5 from date of receipt of the transcript. If returned, the  
6 attached Changes and Signature page contains any changes  
7 and the reasons therefor;  
8        x was not requested by the deponent or a  
9 party before the completion of the deposition;  
10      I further certify that I am neither counsel for,  
11 related to, nor employed by any parties or attorneys  
12 in the action in which this testimony is taken, and  
13 further that I am not financially or otherwise interested  
14 in the outcome of this action.  
15      Certified to by me on this the 1st day  
16 of April, 2024.  
17

17  
18                         *Shauna Foreman*  
19                         Shauna foreman, CSK  
20                         Texas CSR 3786  
21                         Expiration: 10/31/2025  
22                         Veritext Legal Solutions  
23                         300 Throckmorton Street  
24                         Suite 1600  
25                         Fort Worth, Texas 76102  
26                         Tel. (817)336-3042  
27                         Firm No. 571

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1 COUNTY OF HARRIS )  
2 STATE OF TEXAS )  
3 I hereby certify that the witness was notified  
4 on \_\_\_\_\_ that the witness has 30 days (or  
5 \_\_\_\_\_ days, per agreement of counsel) after being  
6 notified by the officer that the transcript is available  
7 for review by the witness and if there are changes in  
8 the form or substance to be made, then the witness shall  
9 sign a statement reciting such changes and the reasons  
10 given by the witness for making them;  
11 That the witness' signature was/was not  
12 returned as of \_\_\_\_\_, 2024.

13 Subscribed and sworn to on this the \_\_\_\_\_  
14 day of \_\_\_\_\_, 2024.  
15

15

16

17

18

19 Texas CSR 3786  
Expiration: 10/31/2025  
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20 300 Throckmorton Street  
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21 Fort Worth, Texas 76102  
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22 Firm No. 571

23

24

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE WESTERN DISTRICT OF TEXAS  
3                   SAN ANTONIO DIVISION

4     AARON MALDONADO, ET AL                   X  
5    X  
6     VS.   X  
7    X   CASE NO. 5:21-cv-85  
8     MAMMOTH ENERGY SERVICES,                   X  
9     INC., COBRA ACQUISITIONS,                  X  
10    LLC, HIGHER POWER ELECTRICAL, X  
11    LLC AND 5 STAR ELECTRIC, LLC    X  
12   ORAL DEPOSITION OF  
13    DONALD ROBERTS  
14    JULY 2, 2024  
15  
16  
17  
18  
19   ORAL DEPOSITION OF DONALD ROBERTS, produced as a  
20    witness at the instance of the Defendant and duly sworn, taken  
21    in the above styled and numbered cause on the 2nd day of July,  
22    2024, from 1 p.m. to 1:58 p.m., before Vickie J. Coody,  
23    Certified Shorthand Reporter No. 1672 in and for the State of  
24    Texas, via Zoom, pursuant to the Federal Rules of Civil  
25    Procedure.

EXHIBIT

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Page 1

<p>1 A P P E A R A N C E S  2 FOR THE PLAINTIFF:  3 MR. DOUGLAS WELMAKER  Welmaker Law, PLLC  4 409 N. Fredonia, Suite 118  Longview, Texas 75601  5  6 FOR THE DEFENDANT:  7 MR. JAMIE L. HOUSTON  Porter Hedges LLP  8 1000 Main Street, 36th Floor  Houston, Texas 77002  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p>1 THE REPORTER: Today is July 2, 2024. We are  2 on the record at 1 p.m. This is the oral deposition of DONALD  3 ROBERTS being conducted remotely through video teleconference.  4 My name is Vickie Coody. My CSR number is 1672. I  5 will be administering the oath and reporting the deposition  6 remotely by stenographic means from my office located in  7 Abilene, Texas.  8 The witness is located in Moultrie, Georgia. He has  9 been identified to me by his driver's license.  10 Will counsel please state your appearances for the  11 record and anyone else present in the room with you?  12 MR. WELMAKER: Yes. Doug Welmaker, counsel for  13 plaintiffs and for Donald Roberts. And there's nobody else  14 here.  15 MR. HOUSTON: Jamie Houston. I am the lawyer  16 for Mammoth Energy Services, 5 Star Electric, Higher Power  17 Electrical, and Cobra.  18 THE REPORTER: Raise your right hand for me  19 please, Donald.  20 Do you solemnly swear or affirm that you are Donald  21 Roberts, and that the testimony you give here today will be  22 the truth, the whole truth, and nothing but the truth, under  23 the penalty of perjury?  24 THE WITNESS: I do.  25 THE REPORTER: Thank you, sir.</p>
<p>Page 2</p>	<p>Page 4</p>
<p>1 INDEX  2 APPEARANCES.....2  3 DONALD ROBERTS  4 Examination by Mr. Houston.....5  5 Witness's Signature Page/Corrections.....40  6 Reporter's Certificate.....42  7 EXHIBITS  8 Exhibit A.....19  9 Offer of Employment  10 Exhibit B.....26  11 Policy  12 Exhibit C.....26  13 Policy  14 Exhibit D.....27  15 Employee Checklist  16  17 (Exhibits not provided to the reporter)</p>	<p>1 DONALD ROBERTS,  2 having been first duly sworn, testified as follows:  3 EXAMINATION  4 BY MR. HOUSTON:  5 Q. Mr. Roberts, will you say your full name for the  6 record, please?  7 A. It's Donald Ray Roberts, II.  8 Q. Uh, before we get started, um, I'm going to go over  9 just a couple of ground rules for you to make this, um,  10 efficient. Uh, the first is that, we obviously have a court  11 reporter here today and she's jotting down our discussion, and  12 so in order for her to do that effectively, uh, she needs to  13 be sure that we don't talk over each other. So I'll ask  14 questions and, you know, if you'll allow me to get the full  15 question out, and then I will allow you to provide a full  16 response, and then we'll go back and forth until the  17 conclusion. Is that good by you?  18 A. Yes, sir.  19 Q. Great. Uh, second thing is: Verbal responses.  20 Obviously I can see you through this video, uh, but the  21 transcript cannot see your movement. And so verbal auditory  22 responses would be great. Deal?  23 A. Yes, sir.  24 Q. Okay. If there's a question you don't understand,  25 uh, feel free to let me know and I'll rephrase it or ask it</p>
<p>Page 3</p>	<p>Page 5</p>

2 (Pages 2 - 5)

1 again. Is that okay with you?	1 Q. Got it. Uh, somebody you worked with got hurt on
2 A. Yes, sir.	2 the job and then you participated in some kind of way in -- in
3 Q. Okay. Um, first, uh, would you start by giving me	3 that?
4 your home address, please?	4 A. Yeah. I had to be, like, a witness in a
5 A. 3718 Georgia Highway 133 North, Doerun, Georgia	5 deposition.
6 31744.	6 Q. Got it. Okay. Is that the only time that you've
7 Q. And how long have you resided at this address?	7 been deposed?
8 A. Four or five years when I bought the house.	8 A. Yeah, I believe so, yes, sir.
9 Q. Are you from Georgia?	9 Q. You ever been a party to a lawsuit other than this
10 A. Yes, sir.	10 one?
11 Q. Uh, do you live alone?	11 A. No, sir.
12 A. No. I got a wife and a little girl.	12 Q. Did you have to give any other testimony in that
13 Q. Okay. Do you have a high school degree?	13 workplace incident?
14 A. Yes, sir.	14 A. Do what, now?
15 Q. What year did you finish high school?	15 Q. Sure. Did you have to give any testimony other
16 A. '96.	16 than what you did when -- when you were deposed in that
17 Q. Any other, uh, degrees?	17 workplace incident? Basically, did you have to go to court --
18 A. No, sir.	18 A. No, sir.
19 Q. What about any trainings or certifications?	19 Q. -- to testify?
20 A. Uh, nothing more than safety training on the job, I	20 Okay. Have you ever testified in court?
21 guess.	21 A. No; no, sir.
22 Q. Um, and as far as on the job, I'm assuming that you	22 Q. Do you remember who you got your paychecks from
23 mean as a lineman?	23 when you work -- when you worked in Puerto Rico?
24 A. Yes, sir.	24 A. It was all online.
25 Q. What did you do prior to becoming a lineman?	25 Q. You said -- say that again?

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Page 8

1 A. I worked at a PVC pipe plant in Adel, Georgia, and	1 A. It was on a computer online through some app.
2 built mobile homes for a couple of years right out of high	2 Q. Got it. Do you know which company issued those
3 school.	3 paychecks?
4 Q. You said that was right out of high school?	4 A. No, sir.
5 A. Pretty much, yes, sir.	5 Q. What company did you work for?
6 Q. Okay. Are you currently employed?	6 A. 5 Star.
7 A. Yes, sir.	7 Q. And you never worked for Mammoth Energy?
8 Q. Where?	8 A. I mean, I -- I heard that they were part of it,
9 A. In California.	9 them and Cobra.
10 Q. How long have you been, uh, working in California?	10 Q. Were part of what?
11 A. About four years.	11 A. They was part of the company, I think, Cobra and 5
12 Q. Um, how often are you in California for work?	12 Star.
13 A. I work three months at a time. Come home every	13 Q. Like, they were related companies?
14 three months for a couple weeks.	14 A. Yeah.
15 Q. And, uh, are you a lineman out there as well?	15 Q. Uh, do you remember your supervisor's names?
16 A. Yes, sir.	16 A. Uh, the two I remember is Richard and a guy named
17 Q. Have you ever been deposed before?	17 David.
18 A. Mmm, no, sir.	18 Q. Richard and David?
19 Q. Uh, have you --	19 A. Yeah.
20 A. Not --	20 Q. Were they supervising you at different times, or
21 Q. Sorry?	21 did they overlap?
22 A. When I was at that pipe plant, somebody got hurt on	22 A. They were -- they were the general foremans. My
23 the job. I believe I was in my early 20s. I think he got	23 super -- my foreman was named Billy Evans on the crew that I
24 hurt or something. Might have been a deposition there. I	24 was on.
25 can't remember. It was something like this.	25 Q. Have you spoken with Mr. Evans since you left

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3 (Pages 6 - 9)

<p>1 Puerto Rico?</p> <p>2 A. Couple of times.</p> <p>3 Q. Uh, did you all discuss this lawsuit?</p> <p>4 A. Uh, no, sir. I haven't talked to him in two or</p> <p>5 three years, probably.</p> <p>6 Q. Okay. Uh, you don't remember Richard's last name?</p> <p>7 A. No, sir. It's been so long ago, I can't -- no.</p> <p>8 Q. Got it. The general foremen, Richard and David,</p> <p>9 they both worked for 5 Star as well?</p> <p>10 A. Uh, yes, sir.</p> <p>11 Q. And the same for Billy Evans?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Uh, what did you do to prepare for your deposition</p> <p>14 today?</p> <p>15 A. Talked to my lawyer.</p> <p>16 Q. Did you look at any documents?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And did you send him any documents?</p> <p>19 A. Mmm, no, sir. I didn't have none to send him.</p> <p>20 Couldn't find them.</p> <p>21 Q. Uh, have you produced all the documents that you</p> <p>22 believe you have --</p> <p>23 A. Yes.</p> <p>24 Q. -- that are responsive?</p> <p>25 A. Yes, sir.</p>	<p>1 really stare at the -- the list for a long amount of time.</p> <p>2 (Speaking simultaneously)</p> <p>3 Q. Oh, sorry.</p> <p>4 A. Yes, sir.</p> <p>5 Q. So you have seen the list?</p> <p>6 A. I did briefly.</p> <p>7 Q. Okay. Uh, but you don't recall talking to anybody</p> <p>8 from that list about this lawsuit?</p> <p>9 A. No, sir.</p> <p>10 Q. Uh, do you still work with anybody who you worked</p> <p>11 with in Puerto Rico?</p> <p>12 A. No, sir.</p> <p>13 Q. How did you come to learn about the job in Puerto</p> <p>14 Rico?</p> <p>15 A. I was working in Florida. Just started there three</p> <p>16 or four months -- ain't been there long -- and a guy that was</p> <p>17 staying in the same campground as I was living at -- I brought</p> <p>18 my camper down there, and he had his camper out there, and I</p> <p>19 guess he knew somebody that was -- that was going, and through</p> <p>20 one person to another, I kind of just the right place at the</p> <p>21 right time. Just knew somebody that knew somebody within the</p> <p>22 company that was going.</p> <p>23 Q. Got it. Uh, were you employed at the time?</p> <p>24 A. Yes, sir.</p> <p>25 Q. What made you decide to leave your job that you had</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. And you also, uh -- sorry. Strike that.</p> <p>2 Did you send, uh, any photographs to your lawyer?</p> <p>3 A. I did a hat that I had.</p> <p>4 Q. And what hat is that?</p> <p>5 A. It's a Cobra hat that I still have laying around.</p> <p>6 Q. Was that your hat?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Uh, did you buy it?</p> <p>9 A. No, sir.</p> <p>10 Q. Where did you get it from?</p> <p>11 A. My shop.</p> <p>12 Q. Somebody gave it to you, or you found it, or what?</p> <p>13 A. Somebody gave it to me up there in Puerto Rico.</p> <p>14 They passed them out to everybody.</p> <p>15 Q. Do you still wear it?</p> <p>16 A. No. It's hanging up in my shop. That's where I</p> <p>17 hide all my keys to my tractor and my four wheelers and all my</p> <p>18 toys I've got.</p> <p>19 Q. Got it. Uh, have you ever -- have you talked to</p> <p>20 anybody else, um, who is a plaintiff in this lawsuit about</p> <p>21 this lawsuit?</p> <p>22 A. No, sir.</p> <p>23 Q. Do you know any of the other plaintiffs in this</p> <p>24 lawsuit?</p> <p>25 A. I'm not really sure. I haven't really got to</p>	<p>1 to go work for 5 Star?</p> <p>2 A. Just wanted to go down there and be part of the --</p> <p>3 the rebuild down there.</p> <p>4 Q. What did you hear about the job before you applied</p> <p>5 for it?</p> <p>6 A. That they were -- the pay, that they were paying</p> <p>7 \$1,000 a day.</p> <p>8 Q. Was that more than what you were making at your</p> <p>9 other job?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And so was that part of the reason you went down to</p> <p>12 Puerto Rico, the thousand bucks a day?</p> <p>13 A. That was part of it, yes, sir.</p> <p>14 Q. And the person who told you that, do you remember</p> <p>15 his name?</p> <p>16 A. No. That's been so long ago. I ain't -- he didn't</p> <p>17 never go, neither. He backed out. So pretty much never seen</p> <p>18 him again after -- when we did go.</p> <p>19 Q. Got it. Um, and did he send you any fliers or any,</p> <p>20 uh, job postings, or did he just tell you verbally what the</p> <p>21 job was paying?</p> <p>22 A. Verbally what it was paying.</p> <p>23 Q. Did you do anything to confirm what the pay was?</p> <p>24 A. No, sir. Just went out on a limb hoping for the</p> <p>25 best. Rolled the dice.</p>

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Page 13

4 (Pages 10 - 13)

<p>1 Q. And did you get the best?</p> <p>2 A. Sir?</p> <p>3 Q. Say again?</p> <p>4 A. I didn't hear you. What did you say?</p> <p>5 Q. Oh, yeah. I -- I said, so did you get the best?</p> <p>6 A. Oh, yeah. The disc?</p> <p>7 Q. The best. You said you were hoping for the best.</p> <p>8 A. Oh.</p> <p>9 Q. Did you end up getting that?</p> <p>10 A. Pretty -- I mean, it was definitely better than what -- where I was.</p> <p>12 Q. Good. How did you apply for the job?</p> <p>13 A. I think it was, uh -- I had to fill something out over line, I think, and then they called and they took the first wave and I -- I was on the list for the first wave.</p> <p>16 Q. So you were part of the initial group that went down there when things were still --</p> <p>18 A. I was there from the very start, yeah. We had to unload the trucks off the -- off the pier once they got off the -- the barge.</p> <p>21 Q. So you slept on the barge when you were first there?</p> <p>23 A. When I was first there, I think the first week or two, they had us in the -- some type of resort. But after they got the barges set up, yeah. As soon as they got them</p>	<p>1 Kentucky?</p> <p>2 A. I left -- I left it there for a year and a half.</p> <p>3 Q. And so you took clothes with you when you went up?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. Um, had you been -- had you decided that you were going to go to Puerto Rico when you drove up to Kentucky?</p> <p>7 A. Yes, sir.</p> <p>8 Q. So it didn't matter what they told you the compensation was as long as it was close to what you were told by your friend?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And you just wanted to help as well, right?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Okay. And you got on a plane, I'm sure, uh, the next day or so; is that right?</p> <p>16 A. We got -- got on a, uh, bus. I think we bussed to a -- I think we flew -- flew private, I think. Or a charter plane, I mean.</p> <p>19 Q. Got it. Did you sign any papers at orientation?</p> <p>20 A. Oh, yeah. I signed a bunch of them.</p> <p>21 Q. You don't remember what those were?</p> <p>22 A. Oh, we barely had time to sign them, much less to sit down and read them.</p> <p>24 (Speaking simultaneously)</p> <p>25 Q. Oh, sorry.</p>
<p>Page 14</p> <p>1 set up, I probably slept on them for nine or ten months, probably.</p> <p>3 Q. Okay. Uh, before you went to Puerto Rico, you filled out something online, you think, and got a call. Was there an interview?</p> <p>6 A. Mmm, no, sir. Just -- just a time to -- a date and a time to be in Kentucky for orientation, I believe.</p> <p>8 Q. Got it. Um, and did you drive up to Kentucky?</p> <p>9 A. Yes, sir.</p> <p>10 Q. How long was your orientation?</p> <p>11 A. Probably couple hours, maybe. There was hundreds of people in there, I think.</p> <p>13 Q. Uh, do you know what they talked about at orientation in those couple of hours?</p> <p>15 A. I don't remember.</p> <p>16 Q. Uh, did they talk about safety?</p> <p>17 A. I don't -- if they did, it wasn't a whole lot of -- so much going on. It was chaos up in there.</p> <p>19 Q. Okay. So you don't remember anything from orientation in terms of what was discussed?</p> <p>21 A. Not much at all.</p> <p>22 Q. Okay. How soon after orientation did you leave for Puerto Rico?</p> <p>24 A. Seemed like it was the next day, I believe.</p> <p>25 Q. So you drove up with your car and left it in</p>	<p>1 A. It was a lot of them.</p> <p>2 Q. A lot of papers?</p> <p>3 A. Yeah. A bunch of them.</p> <p>4 Q. And was it just typical new-hire stuff as -- as you have seen from job to job?</p> <p>6 A. For the most part, yes, sir.</p> <p>7 Q. Got it. Did you ask anybody any questions about the job?</p> <p>9 A. Uh, I think the only questions most people were asking was, like, how long we had to work before we could come home, you know, for a break or whatnot.</p> <p>12 Q. Was that a concern of yours?</p> <p>13 A. Uh, yeah, it kind of was. I mean, I got a wife and kid, so kind of wondering when I would be able to see them.</p> <p>15 Q. Got it. And do you recall what you were told?</p> <p>16 A. Uh, yes, sir. It was, like, work six weeks and be off two weeks. And then when we got there, it changed from six weeks to four months before we could come home.</p> <p>19 Q. Got it. When you got to Puerto Rico, I'm guessing you landed in San Juan; is that right?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Did you stay overnight in San Juan?</p> <p>23 A. Uh, no. They took us -- it may have been part of San Juan, but they took us to wherever that resort was.</p> <p>25 Q. Okay. It wasn't the Isla Verde, was it?</p>

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Page 17

5 (Pages 14 - 17)

<p>1 A. I can't -- I don't --  2 (Speaking simultaneously)  3 A. It was a nice resort, but it had been flooded and  4 destroyed from the hurricane, but they got it back up and  5 going.  6 Q. So it wasn't the Isla Verde, then. Got it.  7 All right. Did you work the first day you were at  8 the resort?  9 A. I think we hung around there for a day or two  10 before we went and got the trucks off the barge.  11 Q. Okay. And then were you assigned to a certain part  12 of the island at that point?  13 A. I don't believe so.  14 Q. You were still close to San Juan?  15 A. Yes, sir. Until we got our equipment.  16 Q. And that was a couple of days later?  17 A. I think. I'm pretty sure so.  18 Q. Okay. Now, you were hired as a journeyman?  19 A. Yes, sir.  20 Q. What does it take to become a journeyman?  21 A. You got to be able to do underground, primary, got  22 to be, uh, qualified in all areas of, uh, power line,  23 overhead, underground, substation.  24 Q. Um, and so when you went to get the equipment, it  25 was the entire group of -- of workers?</p>	Page 18	<p>1 Q. Uh, do you recognize your own handwriting?  2 A. Yes, sir.  3 Q. Okay. Is this your name?  4 A. Yes, sir.  5 Q. And it looks like you wrote it?  6 A. Yes, sir.  7 Q. Okay. This is an Offer of Employment from 5 Star,  8 and I'm guessing you've seen it since you wrote your name on  9 it, right?  10 A. Yes, sir.  11 Q. Okay. And there's a portion in here where it says,  12 on the first line, We are pleased that you have accepted the  13 position of journeyman lineman. Then it tells you about a  14 special assignment in Puerto Rico which is expected to be  15 completed within one year. Do you see that?  16 A. Yes, sir.  17 Q. Then it follows, Our goal is to work twelve hours a  18 day and not to work at night. Do you see that?  19 A. Yes, sir.  20 Q. Okay. Do you recall the expectation being that you  21 work about twelve hours a day and not at night?  22 A. I don't recall it, but...  23 Q. Okay. Fair enough. Uh, do you see where there's  24 also this part where it says, As many of you know and are  25 accustomed to with storms, certain situations may arise that</p>
<p>1 A. Yeah. Yes, sir. It was a big group.  2 Q. So it didn't matter --  3 (Speaking simultaneously)  4 Q. Sorry.  5 A. Yeah. I have -- I have so much -- so many -- so  6 many trucks coming in that it took everybody to drive them  7 back.  8 Q. Okay. So it was a big group and not just based on  9 job position, right?  10 A. That's right. As long as you had a commercial  11 driving license.  12 Q. And so you did some of the driving?  13 A. Yes, sir.  14 Q. Do you recall going through a background check?  15 A. Uh, I don't recall, but I'm sure they did, though.  16 Q. What were you told about how much you were expected  17 to work in terms of hours per day?  18 A. Mmm, I don't think they ever told us anything along  19 that lines, that I can recall.  20 Q. You said they didn't tell you?  21 A. Not that I can remember.  22 Q. Got it. Okay. Uh, I'm going to mark this as  23 Exhibit A. Let's see.  24 Mr. Roberts, are you able to see my screen?  25 A. Yeah, I can see it.</p>	Page 19	<p>1 could require longer hours, but will not exceed sixteen hours.  2 Do you see that?  3 A. Yes, sir.  4 Q. Did you ever work more than sixteen hours?  5 A. Uh, no, sir.  6 Q. Did you ever work sixteen?  7 A. Not that I can remember. We worked --  8 Q. Sorry?  9 A. We worked from sunup to sundown.  10 Q. Okay. And would you say that's about twelve hours?  11 A. Yes, sir.  12 Q. Do you recall when you would have received this  13 offer of employment?  14 A. I would have -- probably in orientation, maybe. I  15 don't know.  16 Q. Okay. And so if you look down a little bit to the  17 chart, there's a start date that's November 1st, 2017. Does  18 that sound around the time when you were at orientation?  19 A. Yes, sir.  20 Q. And you see here there's a starting hourly rate of  21 \$32. Do you see that?  22 A. Yes, sir.  23 Q. Okay. And then there's a Puerto Rico storm rate,  24 which is sixteen hour paid shift. Do you see that?  25 A. Yes, sir.</p>

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Page 21

6 (Pages 18 - 21)

1 Q. Okay. Then if you go over, it tells you \$1,000 per  
2 day that will be broken down hourly over sixteen hours daily.  
3 Do you see that?  
4 A. Yes, sir.  
5 Q. Do you recall seeing that at orientation?  
6 A. No, sir, I don't recall that. It's been a long  
7 time ago.  
8 Q. I get it. Uh, would it be fair to say this is your  
9 signature here?  
10 A. Yes, sir.  
11 Q. Okay. Did you ever recall, um, what time you  
12 started work in the mornings?  
13 A. I think it was 6.  
14 Q. Okay. So on the six-hour -- sorry. On a  
15 twelve-hour shift, you would work 6 a.m. to 6 p.m.; is that  
16 right?  
17 A. Yes, sir.  
18 Q. You recall working past 6 p.m., correct?  
19 A. I don't -- I don't recall working past 6.  
20 Q. And so to be sure that I'm clear: You don't  
21 recall, uh, working past 6, but you're not saying that you  
22 didn't work past 6, right? You just don't remember?  
23 A. Yeah. I mean, it's so long ago. I just know we  
24 were -- we were in right before dark every day.  
25 Q. Okay.

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1 A. Every two weeks.  
2 Q. Was this the most money you'd made on a job?  
3 A. At that point it was.  
4 Q. You didn't have reason to complain about the money  
5 you were making, did you?  
6 A. No, sir.  
7 Q. And so you didn't -- to be sure that I'm clear:  
8 And so you did not complain to anybody, right?  
9 A. No, sir. It looked -- looked right on my check.  
10 That was all I was more or less concerned about on what they  
11 said they were going to pay.  
12 Q. Got it. Uh, and when you say it looked right on  
13 your check, how were you looking at your check?  
14 A. \$1,000 a day. I was getting paid every two weeks,  
15 so my check was saying 14,000 every two weeks, so --  
16 (Speaking simultaneously)  
17 Q. Yeah. I followed that. Uh, my question is: What  
18 were you using to look at the money you were receiving? Was  
19 it a pay stub, or was it -- did -- did you check an online  
20 bank account, or what?  
21 A. I checked that online app that they have. It's a  
22 PayPal, or whatever it was at the time. I can't remember.  
23 Q. Was it Paycom?  
24 A. Uh, Paycom, yeah.  
25 Q. And so you would go to Paycom and, uh, what did

Page 24

1 A. I think it would be safe to say a good twelve hours  
2 is probably what we worked every day.  
3 Q. Was it pretty hard work?  
4 A. Some days were.  
5 Q. Do you recall, uh, stopping work early? Weather or  
6 equipment problems, what have you?  
7 A. No, I don't recall.  
8 Q. Okay.  
9 A. Maybe if they had, like, people come in from 5 Star  
10 and Cobra a couple of times, they had, like, a big safety  
11 meeting, a few days early, we'd come in.  
12 Q. Okay. And, uh, somebody would talk about safety  
13 procedures or safety issues?  
14 A. Uh, not only that, but just how much time, if they  
15 think we're going to be up there longer, or stuff, you know,  
16 within the company.  
17 Q. Okay.  
18 A. How it was looking as far as time-wise.  
19 Q. And you -- do you remember the names of the people  
20 who were --  
21 A. Lord, no.  
22 Q. I'm sorry?  
23 A. Lord, no.  
24 Q. Got it. Okay. Lord, no. Got it. All right.  
25 Um, were you paid biweekly?

Page 23

1 Paycom show?  
2 A. It showed that your gross pay, what your gross pay  
3 was.  
4 Q. Got it. Um, do you recall seeing that the gross  
5 pay was not exactly \$14,000?  
6 A. Yeah. It was a few cents away.  
7 Q. And that didn't give you any concern, right?  
8 A. No, sir.  
9 Q. And so you never said to anybody, Hey, I got  
10 more -- more money than I expected, right?  
11 A. Uh, no, sir.  
12 Q. Got it. Did you ever look at the hours that were  
13 reported in Paycom?  
14 A. I did.  
15 Q. And what was your understanding of those hours on  
16 the Paycom app?  
17 A. That was how they was making that \$1,000 a day  
18 work. They had to break it down into numbers and make it all  
19 add up.  
20 Q. Okay. That's what the offer letter said, right?  
21 A. \$1,000 a day.  
22 Q. Over sixteen hours daily, right?  
23 A. (No response)  
24 Q. I couldn't hear you if you said something.  
25 A. I said, I guess you can look at it like that if

Page 25

7 (Pages 22 - 25)

1 you -- you can make it look however you want to make it look,  
 2 but they said \$1,000 a day so that's what I was looking for.  
 3 Q. Okay. Did you talk to anybody further, uh, about  
 4 how much you were making or how much you should make once you  
 5 got to Puerto Rico?  
 6 A. No, sir.  
 7 Q. Okay. I'm marking this as Exhibit B.  
 8 Mr. Roberts, is this your signature here near the  
 9 bottom?  
 10 A. Yes, sir.  
 11 Q. I'm going to ask you whether or not you recall  
 12 seeing this document.  
 13 A. I seen so many on that day.  
 14 Q. Got it. Okay. Uh, but this is just the 5 Star  
 15 logo, right? Do you see that? It's -- it's black and white,  
 16 but...  
 17 A. Yes, sir.  
 18 Q. Okay. And then you initialed receiving these  
 19 policies, right?  
 20 A. Yes, sir.  
 21 Q. Okay. I'm marking this as Exhibit C.  
 22 Is this your signature, Mr. Roberts?  
 23 A. Yes, sir.  
 24 Q. Okay. And you don't remember receiving this one  
 25 either, right?

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1 A. Oh, gosh. Around -- yeah, I've done several of  
 2 them. Worked on a couple of hurricanes, couple of ice storms,  
 3 couple of tornadoes.  
 4 Q. And -- and this was before Puerto Rico, or...  
 5 A. Yeah.  
 6 Q. Okay. So do you typically do storm work?  
 7 A. No. I mean, I don't -- I don't storm chase. I  
 8 don't -- I don't do that, no.  
 9 Q. Okay. Okay. In July of 2018, do you recall, um,  
 10 there being a contract change and the -- and the schedule  
 11 changing for you guys?  
 12 A. Yes, sir.  
 13 Q. What do you remember about that?  
 14 A. I think they started giving us Sundays off.  
 15 Q. So instead of seven days a week, you were working  
 16 six days a week?  
 17 A. I believe so.  
 18 Q. Were you still working twelve hours a day?  
 19 A. Uh, yes, sir.  
 20 Q. Okay. And you stayed in Puerto Rico employed into  
 21 2019, right?  
 22 A. Yeah. One of the last ones to leave.  
 23 Q. Uh, first in, last out?  
 24 A. Yes, sir.  
 25 Q. Was that the end of the project?

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1 A. Mmm, no, sir.  
 2 Q. Okay. Uh, but again, here we have the 5 Star logo,  
 3 right?  
 4 A. Yes, sir.  
 5 Q. And this basically is a policy that just says,  
 6 return our stuff at the end of your employment, right?  
 7 A. Right.  
 8 Q. Okay. Mr. Roberts, I'm showing you what I am  
 9 marking as Exhibit D. Uh, this is an Employee Checklist.  
 10 Now, you don't recognize this document, right?  
 11 A. There's so many of them. I'd be lying if I said.  
 12 Q. Okay. Uh, do you remember providing a copy of your  
 13 driver's license?  
 14 A. I don't remember.  
 15 Q. Do you remember taking a drug test?  
 16 A. I do.  
 17 Q. And do you recall, um, taking your social security  
 18 card or your birth certificate up to Kentucky with you?  
 19 A. I'm sure I did, but it was so long ago.  
 20 Q. Okay. Now, I know you said that before your work  
 21 with 5 Star you were in Florida, right?  
 22 A. Yes, sir.  
 23 Q. Uh, was that storm work?  
 24 A. No, sir.  
 25 Q. Had you done storm work before?

Page 27

1 A. As far as I know it was.  
 2 Q. And so you were otherwise happy working in Puerto  
 3 Rico?  
 4 A. For the most part, yes, sir.  
 5 Q. And then after Puerto Rico, you came back and  
 6 continued to work for 5 Star?  
 7 A. No, sir.  
 8 Q. Where did you go after that?  
 9 A. I took a month off and hooked up to my camper and  
 10 went to California and I've been here since.  
 11 Q. Got it. And you're currently in Georgia?  
 12 A. I'm on -- I'm in Georgia on vacation for the 4th of  
 13 July.  
 14 Q. Okay. Do you know whether or not, uh, someone kept  
 15 track of your time in Puerto Rico?  
 16 A. I don't -- I don't know how they done that, to be  
 17 honest with you. I don't know if it was my foreman, if he  
 18 done a time sheet every day, or -- or -- or how they done it.  
 19 Q. Do you -- do you remember a company called Tech  
 20 Serve?  
 21 A. I think so.  
 22 Q. Do you recall any interactions with, uh, the people  
 23 who worked for Tech Serve?  
 24 A. I remember one guy, but I -- I don't know if that's  
 25 who he worked for or not, but he was kind of always around.

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8 (Pages 26 - 29)

<p>1 But I'm not sure what -- what his job was. I -- I'm not --      2 I'm not 100-percent.      3 Q. Okay. Do you recall what he was doing when he was      4 around?      5 A. Seemed like he was, like, maybe over safety or      6 something.      7 Q. And so what gave you that impression?      8 A. Because he was always just standing around and      9 watching.      10 Q. Okay. Uh, and you weren't responsible for      11 supervising anybody, right?      12 A. No, sir, I wasn't.      13 Q. Have you ever worked a job where you were on call?      14 A. I may have couple of times in the past. Uh, as a      15 matter of fact, I think when we worked in Atlanta every now      16 and then they would tell us not to go out drinking because we      17 was on call tonight.      18 Q. When you were in Puerto Rico, uh, were you ever      19 called back to work?      20 A. No, sir.      21 Q. Uh, could you have been called back to work?      22 A. Not that I know of, because they never told us that      23 we were -- anybody was on call, so most of us always went out      24 and there was one bar close to our barge that everybody went      25 to, so...</p>	<p>1 do you recall what time it got dark?      2 A. I don't think the time changes there.      3 Q. You don't think the time changes?      4 A. I don't think it did. It may have. I don't recall      5 them having a time change over there. I could be wrong.      6 Q. Okay. So set the time part aside. Um, it seems      7 like in the summer months it stays light later into the day,      8 right?      9 A. (Witness nods head)      10 Q. And so I'm asking about the other months, the --      11 the winter months where it seems that the sun isn't out quite      12 as much. Do you remember if you still were working --      13 A. No.      14 Q. -- sunrise to sunset at that point?      15 A. We -- I think we started heading in between 5 and 6      16 every day.      17 Q. Okay. And so you didn't work after dark, right?      18 A. No, sir.      19 Q. Okay. When you got back to -- got back from a      20 shift, did you guys go to a laydown yard?      21 A. Uh, some yards we did. Uh, when we was staying on      22 the barges, we parked the -- most of the equipment outside      23 the -- the barge.      24 Q. Did you have to, uh, clean equipment when you got      25 back?</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. Uh, do you remember there being a policy about no      2 drinking?      3 A. No, sir.      4 Q. And so it's your position that you were paid a day      5 rate, right?      6 A. Yes, sir.      7 Q. So if you were paid a day rate, um, would you      8 expect to be able to be called back out?      9 A. I don't understand the question.      10 Q. Got it. Uh, if you were being paid for the day as      11 you, uh, allege, do you think that you were subject to being      12 called out when you were needed that day at any time?      13 A. Uh, being they never told nobody that we was on      14 call, I didn't expect them to. We wasn't notified, you know,      15 You on call, so we treated it as if we wasn't on call.      16 Q. You say you treated it as if you were not?      17 A. Yes, not.      18 Q. Okay. Uh, do you think that you could have refused      19 to go back out to handle work if you were asked?      20 A. No, sir.      21 Q. You said yes?      22 A. I wouldn't have refused if they would have told us.      23 Q. Got it. Do you ever remember working after dark?      24 A. No, sir.      25 Q. Um, in the, uh, fall months and the winter months,</p>	<p style="text-align: right;">Page 32</p> <p>1 A. No, sir.      2 Q. So at what point did you have to clean equipment?      3 A. We never cleaned equipment.      4 Q. Okay. Uh, did you ever have to repair equipment?      5 A. No. They had mechanics out there doing that.      6 Q. Okay. And so your job was only servicing the power      7 lines?      8 A. Yes, sir.      9 Q. And driving?      10 A. That's right.      11 Q. How many people worked in your crew?      12 A. Five.      13 Q. Uh, you, uh, was it -- you said there was a      14 foreman, a general foreman?      15 A. Yes, sir.      16 Q. Who else?      17 A. Kenneth Bevels, a guy.      18 Q. Bevels?      19 A. Ken -- Ken Bevels was -- was one guy on my crew.      20 Bruce Mathis was another guy. Billy Evans was the foreman.      21 Uh, some guy named Bob. I don't know Bob's last name.      22 Q. Okay. Uh, and the people on your crew changed      23 during your time there, right?      24 A. Yes, sir.      25 Q. Okay. And you haven't spoken with the people on</p>

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9 (Pages 30 - 33)

<p>1 your crews about your claims in this lawsuit, right?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you eventually branch out of the San Juan area?</p> <p>4 A. Uh, yes, sir.</p> <p>5 Q. Where did you go?</p> <p>6 A. It was over there where the barges were, right</p> <p>7 where the eye comes through.</p> <p>8 Q. And that's where you spent just all of your time?</p> <p>9 A. Where I spent the majority of it. I can't remember</p> <p>10 the name of that city. Humacao, something.</p> <p>11 Q. Yeah, that's it.</p> <p>12 Okay. Um, how far of a drive is that from, uh, the</p> <p>13 laydown yard?</p> <p>14 A. It's a little bit of a drive, but we always parked</p> <p>15 in Humacao at the, uh -- at the barges, so we didn't have to</p> <p>16 park at the yard and then get on a bus. We just parked</p> <p>17 outside the barge in our equipment.</p> <p>18 Q. Uh, do you recall checking in with someone every</p> <p>19 morning?</p> <p>20 A. No, sir. Uh, not -- I mean, I had my own foreman,</p> <p>21 so I -- I -- maybe he done it. I don't know. Probably the</p> <p>22 one that checked in for everybody.</p> <p>23 Q. Got it. Okay. And during your time in Puerto</p> <p>24 Rico, you would travel to different parts of the island,</p> <p>25 right, because you guys would repair a certain part and then</p>	<p>1 (Speaking simultaneously)</p> <p>2 A. We as a crew always ate together.</p> <p>3 Q. Right. So it sounds like, you know, if everybody</p> <p>4 just mutually agreed --</p> <p>5 A. We'd -- we'd find a stopping point with whatever we</p> <p>6 were doing around lunchtime.</p> <p>7 Q. Uh, could the foreman say, No, we won't eat lunch</p> <p>8 right now. We'll work another thirty minutes?</p> <p>9 A. Probably.</p> <p>10 Q. But that never happened?</p> <p>11 A. Not to my knowledge.</p> <p>12 Q. Okay. And what did you do for dinner?</p> <p>13 A. They had food for us there at the barge for dinner,</p> <p>14 too.</p> <p>15 Q. How did it taste?</p> <p>16 A. It tasted all right sometimes. It wasn't the best</p> <p>17 in the world, but it would do it. It would get the job done.</p> <p>18 Q. Got it. Um, to go back to lunch for a second. Uh,</p> <p>19 how long would you guys stop for lunch?</p> <p>20 A. Probably thirty minutes.</p> <p>21 Q. Okay. What did you take? A sandwich or something?</p> <p>22 A. They would -- they had us sandwiches packed in</p> <p>23 little boxes. But it was awful, though. It was horrible.</p> <p>24 Q. Sounds like it.</p> <p>25 What was the process for when you wanted to go back</p>
<p>Page 34</p> <p>1 progress a little farther, right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Uh, to the best of your estimation, what's the</p> <p>4 furthest you had to travel in one day for a job?</p> <p>5 A. Thirty minutes to an hour, maybe.</p> <p>6 Q. Okay. And that's each way?</p> <p>7 A. I guess you can say that.</p> <p>8 Q. Were you provided breakfast in the mornings?</p> <p>9 A. I had, uh, breakfast on the barge.</p> <p>10 Q. And you would eat the breakfast?</p> <p>11 A. Uh-huh.</p> <p>12 Q. What did you do for lunch?</p> <p>13 A. We would go get something to eat. When we first</p> <p>14 started, they -- they packed us food for a while. We brought</p> <p>15 it with us. But after a while, we were allowed to go get us</p> <p>16 something.</p> <p>17 Q. Who decided when you guys stopped for lunch?</p> <p>18 A. It's up to our discretion.</p> <p>19 Q. So could you one day say, All right, I'm going to</p> <p>20 work and it's time for lunch?</p> <p>21 A. We could.</p> <p>22 Q. Pardon me?</p> <p>23 A. We could.</p> <p>24 Q. And so by we, I'm -- I'm -- I'm talking about you</p> <p>25 specifically. Not the --</p>	<p>Page 36</p> <p>1 Stateside?</p> <p>2 A. What do you mean?</p> <p>3 Q. Sure. If you wanted to see your wife and daughter,</p> <p>4 uh, what did you need to do?</p> <p>5 A. On a break?</p> <p>6 Q. Yeah. So if you wanted time away from Puerto Rico,</p> <p>7 how did that work? I mean, because you couldn't just walk out</p> <p>8 the door and fly away, right?</p> <p>9 A. Right. They, uh -- I think the first time or two</p> <p>10 they -- they bought us tickets to go home.</p> <p>11 Q. So you would tell somebody that, Hey, I'm -- I'm</p> <p>12 going home?</p> <p>13 A. Yeah. We would give them a two or three weeks</p> <p>14 notice on when we was planning to go home. But --</p> <p>15 Q. And -- sorry.</p> <p>16 A. But I think we had to -- we had to -- we had to get</p> <p>17 our four months in. We had to work 127 days straight before</p> <p>18 they let us go home. Once we got to that point, once we</p> <p>19 started getting close to that point, All right, we coming up</p> <p>20 on our four months. We ready to go home for a couple of</p> <p>21 weeks, so...</p> <p>22 Q. Did, uh, the crew take time off together, or would</p> <p>23 you go home and come back and somebody else leaves after that?</p> <p>24 A. Yeah. They, uh -- for the most part, I think our</p> <p>25 whole crew left together at the same time.</p>

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10 (Pages 34 - 37)

1 Q. Got it.  
 2 A. And then, uh, they had people coming in relieving  
 3 everybody. I think that's when they maybe flew in that second  
 4 wave, I think.  
 5 Q. Were you ever disciplined, um, while you were in  
 6 Puerto Rico?  
 7 A. No, sir.  
 8 Q. Were you ever sick?  
 9 A. No, sir.  
 10 Q. Going back to your pay: Uh, did anyone ever talk  
 11 to you about an hourly rate and an overtime rate?  
 12 A. No, sir.  
 13 Q. And so the only mention of it that, um -- the only  
 14 mention of the hourly rate would have been in the offer  
 15 letter?  
 16 A. Yeah. I was only mention of the, uh, daily rate.  
 17 Q. Say that again?  
 18 A. I said, I was only -- I was only told I was getting  
 19 a daily rate.  
 20 Q. And you don't remember who told you that, right?  
 21 A. That's what they was saying, everybody that was --  
 22 that were going. Everybody I knew, the group I fell in, we  
 23 would just talk about the daily rate, what they were paying by  
 24 the day.  
 25 Q. How much money are you seeking in this lawsuit?

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1 A. Just my overtime.  
 2 Q. But you don't have that figure in your mind?  
 3 A. I've -- I've seen it.  
 4 Q. Okay. Uh, is there anything that I have not asked  
 5 you about that you would testify to at trial?  
 6 A. I don't understand. Do what, now?  
 7 Q. Sure. Is there anything else you want to share  
 8 with me about your claims that you believe support your  
 9 contention that you were not paid overtime?  
 10 A. No, sir.  
 11 MR. HOUSTON: You've been my best witness  
 12 today.  
 13 I'll pass the witness.  
 14 MR. WELMAKER: All right. We'll reserve all  
 15 questions until trial.  
 16 THE REPORTER: Can I get y'all's orders,  
 17 please?  
 18 MR. WELMAKER: Read and sign, please.  
 19 MR. HOUSTON: And the same for me. Standard is  
 20 fine.  
 21 THE REPORTER: Thank y'all.  
 22  
 23 (End of proceedings)  
 24  
 25

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	CHANGES AND SIGNATURE	
PAGE	LINE CHANGE	REASON
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1 I, DONALD ROBERTS, have read the foregoing deposition and  
 2 hereby affix my signature that same is true and correct,  
 3 except as noted.  
 4  
 5 \_\_\_\_\_  
 6  
 7 STATE OF TEXAS      X  
 8 COUNTY OF      X  
 9 BEFORE ME, \_\_\_\_\_, on this day personally  
 10 appeared DONALD ROBERTS, known to me, or proved to me through  
 11 identity card or other document or person, to be the person  
 12 whose name is subscribed to the foregoing instrument and  
 13 acknowledged to me that he executed the same for the purposes  
 14 and consideration therein expressed.  
 15 Given under my hand and seal of office this \_\_\_\_\_ day of  
 16 \_\_\_\_\_, A.D., 2024.  
 17  
 18  
 19 Notary Public in and for the  
 State of Texas  
 20  
 21  
 22  
 23  
 24  
 25 Job No. HOU6770119

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11 (Pages 38 - 41)

<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE WESTERN DISTRICT OF TEXAS 3 SAN ANTONIO DIVISION 3 AARON MALDONADO, ET AL X X 4 VS. X X CASE NO. 5:21-cv-85 5 MAMMOTH ENERGY SERVICES, X INC., COBRA ACQUISITIONS, X 6 LLC, HIGHER POWER ELECTRICAL, X LLC AND 5 STAR ELECTRIC, LLC X 7 REPORTER'S CERTIFICATION 8 DEPOSITION OF DONALD ROBERTS JULY 2, 2024 9 10 I, Vickie J. Coody, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following: 12 That the witness, DONALD ROBERTS, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness; 15 That the amount of time used by each party at the deposition is as follows: 17 Mr. Houston - 58 minutes 18 That the deposition transcript was submitted on _____ 19 to the attorney for Plaintiff for examination, signature, and 20 return to Veritext on or before 30 days; 21 That pursuant to information given to the deposition officer at the time said testimony was taken, the following 23 includes all parties of record: 24 25 Mr. Douglas B. Welmaker, Attorney for Plaintiff; Mr. Jamie L. Houston, Attorney for Defendant;</p>	<p>1 doug@welmakerlaw.com 2 July 18, 2024 3 Maldonado, Aaron Et Al v. Mammoth Energy Services, Et Al 4 DEPOSITION OF: Donald Roberts (# 6770119) 5 The above-referenced witness transcript is 6 available for read and sign. 7 Within the applicable timeframe, the witness 8 should read the testimony to verify its accuracy. If 9 there are any changes, the witness should note those 10 on the attached Errata Sheet. 11 The witness should sign and notarize the 12 attached Errata pages and return to Veritext at 13 errata-tx@veritext.com. 14 According to applicable rules or agreements, if 15 the witness fails to do so within the time allotted, 16 a certified copy of the transcript may be used as if 17 signed. 18 Yours, 19 Veritext Legal Solutions 20 21 22 23 24 25</p>
<p>1 That \$ _____ is the deposition officer's 2 charges to the Defendant for preparing the original deposition 3 transcript and any copies of exhibits; 4 I further certify that I am neither counsel for, related 5 to, nor employed by any of the parties in the action in which 6 this proceeding was taken, and further that I am not 7 financially or otherwise interested in the outcome of the 8 action. 9 Sworn to by me this 18th day of July, 2024. 10 11 12  VICKIE J. COODY, Texas CSR 1672 13 Expiration Date: 8/31/25 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 42</p> <p>Page 44</p>

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**[1 - assignment]**

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE WESTERN DISTRICT OF TEXAS  
3 SAN ANTONIO DIVISION  
4 AARON MALDONADO, ET AL )  
5 )  
6 vs. ) CASE NO. 5:21-cv-85  
7 )  
8 MAMMOTH ENERGY SERVICES, )  
9 INC., COBRA ACQUISITIONS, )  
10 LLC, HIGHER POWER )  
11 ELECTRICAL, LLC and 5 STAR)  
12 ELECTRIC, LLC )

9 ORAL DEPOSITION

10 | JOSE RODRIGUEZ APONTE

May 3, 2024

13 ORAL DEPOSITION OF JOSE RODRIGUEZ APONTE,  
14 produced as a witness at the instance of the  
15 Defendant and duly sworn, was taken remotely by Zoom  
16 in the above-styled and numbered cause on the 3rd day  
17 of May, 2024, from 2:05 p.m. to 6:05 p.m., before  
18 Shauna Foreman, Certified Shorthand Reporter in and  
19 for the State of Texas, reported by computerized  
20 stenotype machine, pursuant to the Federal Rules of  
21 Civil Procedure and the provisions stated on the  
22 record or attached hereto.



<p>1 APPEARANCES  2 FOR PLAINTIFFS:  3 DOUGLAS WELMAKER, ESQ.  WELMAKER LAW  4 400 N. Fredonia  Suite 118  5 Longview, Texas 75601  E-mail: doug@welmakeralaw.com  6  FOR DEFENDANTS:  7  ANTHONY ARTEAGA  8 EMIL SADYKHOV, ESQ.  PORTER HEDGES  9 1000 Main Street  36th Floor  10 Houston, Texas 77002  E-mail: esadykhov@porterhedges.com  11  ALSO PRESENT:  12 Diego Acosta, Interpreter  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p>1 (Interpreter sworn.)  2 JOSE RODRIGUEZ APONTE,  3 having been first duly sworn, testified as follows:  4 EXAMINATION  5 Q. (BY MR. SADYKHOV) All right. Thank you  6 very much.  7 Mr. Rodriguez, would you please state  8 your full name for the record?  9 A. Jose Alberto Rodriguez Aponte. Good  10 afternoon.  11 Q. Which do you prefer, Mr. Rodriguez or  12 Mr. Aponte?  13 A. So my first last name is Rodriguez. So  14 Jose Alberto Rodriguez. Mr. Rodriguez.  15 Q. Thank you. I appreciate that.  16 So, Mr. Rodriguez, I'm one of the  17 attorneys representing the defendants in this  18 lawsuit. And just for purposes of the record, the  19 defendants are Mammoth Energy Services, Inc., 5 Star  20 Electric, LLC, Higher Power Electrical, LLC, and  21 Cobra Acquisitions, LLC.  22 And I just want to say, first of all,  23 thank you for being here. I appreciate you taking  24 the time. Before we get started, I just wanted to go  25 over a couple quick ground rules for the deposition.</p>																																																																											
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No, I don't.  3 Q. So first, the court reporter is writing  4 down everything we say, so it's important for the  5 transcript for you to wait until I'm done finishing  6 my question before you say your answer.  7 Does that make sense?  8 A. Okay. Understood.  9 Q. Also, because everything is being written  10 down, it's important that when you're answering a  11 question, you have to give me a verbal answer -- like  12 yes, no, something else -- because we can't take down  13 a shake of the head or a no.  14 Does that make sense?  15 A. Understood.  16 Q. Thank you.  17 And if you need a break at any time,  18 just let me know. We'll probably do a break around  19 every hour. And the only thing I ask is if you do  20 need a break, just -- and there's a question pending,  21 you know, on the table at that time, I want you to  22 answer the question first before we break.  23 Is that okay?  24 A. Understood.  25 Q. And finally, you understand that you're</p>
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<p>1 under oath today, correct?</p> <p>2 A. Understood, yes.</p> <p>3 Q. Thank you.</p> <p>4 Would you please state your address</p> <p>5 for the record, your home address?</p> <p>6 A. Well, where I'm at right now in Puerto</p> <p>7 Rico, my address is Calle Violeta -- C-A-L-L-E,</p> <p>8 V-I-O-L-E-T-A -- E6, Urbanizacion,</p> <p>9 U-R-B-A-N-I-C-I-Z-I-O-N --</p> <p>10 INTERPRETER: Sorry. I mixed that up.</p> <p>11 A. U-R-B-A-N-I-Z-A-C-I-O-N, Estancias,</p> <p>12 E-S-T-A-N-C-I-A-S, space D-E, space Santa Barbara, in</p> <p>13 Gurabo, Puerto Rico.</p> <p>14 Would you like me to put it down on a</p> <p>15 piece of paper so I could show it to you and it would</p> <p>16 be more precise?</p> <p>17 Q. (BY MR. SADYKHOV) Yeah, I guess if you</p> <p>18 want to do that, that would be great.</p> <p>19 So, Mr. Rodriguez, how long have you</p> <p>20 lived at this address?</p> <p>21 A. So I have been here for over 20 years, but</p> <p>22 I did leave to go work five years in the U.S. I am,</p> <p>23 however, back here now in Puerto Rico working with</p> <p>24 the same company that I was working for in the U.S.</p> <p>25 but living here.</p>	<p>1 A. Well, that's what I'm saying. I'm not</p> <p>2 sure. It could be three, four, five years. I've</p> <p>3 been working with companies, you know, that, you</p> <p>4 know, it's not constant because they have contracts</p> <p>5 and they finish.</p> <p>6 Q. I think I understand now.</p> <p>7 So what you're saying is from around</p> <p>8 2020 to 2021, since then you've been working on and</p> <p>9 off in America occasionally; is that right?</p> <p>10 A. Yes, correct.</p> <p>11 Q. And did you -- before 2020 or 2021, had you</p> <p>12 ever lived or worked in the United States?</p> <p>13 A. Not living, per se. Just, you know,</p> <p>14 interrupted because when the contracts are</p> <p>15 finished.</p> <p>16 Q. Okay. Let me ask it this way.</p> <p>17 When was the very first time that you</p> <p>18 went to the United States for work, intermittent or</p> <p>19 continuously?</p> <p>20 A. I don't quite recall well, but I think it</p> <p>21 was in 2020.</p> <p>22 Q. So, again, just to make sure we're clear on</p> <p>23 the record. Before 2020, you had never worked in the</p> <p>24 United States?</p> <p>25 A. I'm not quite sure of those dates. But</p>
<p style="text-align: right;">Page 6</p> <p>1 Q. What company were you working for in the</p> <p>2 U.S.?</p> <p>3 A. Mastec.</p> <p>4 Q. And what years were those?</p> <p>5 A. So I've been working with them from around</p> <p>6 2020, 2021 -- not continuously because the contracts</p> <p>7 sometimes are interrupted. But now they have a</p> <p>8 project here, and I'm here with them now.</p> <p>9 Q. And by "here," do you mean Puerto Rico or</p> <p>10 the United States?</p> <p>11 A. Yes, in Puerto Rico.</p> <p>12 Q. Got it. So what years -- or which five</p> <p>13 years did you live in the United States?</p> <p>14 A. So maybe it wasn't five years. That's</p> <p>15 just, like, an estimate. You know, maybe it was</p> <p>16 around four or so. You know, not being precise. But</p> <p>17 that's why I said five.</p> <p>18 Q. I appreciate that, Mr. Rodriguez. Thank</p> <p>19 you for clarifying. I'm just trying to get an idea</p> <p>20 of, I guess, the year you started living there and</p> <p>21 the year you ended. You said around 2020, 2021. I</p> <p>22 only count three or four years from then.</p> <p>23 So I just want to make sure that I</p> <p>24 understand, you know, how long you lived in the U.S.</p> <p>25 and when that was.</p>	<p style="text-align: right;">Page 8</p> <p>1 before that date, I'm pretty sure that I had not</p> <p>2 worked in the U.S.</p> <p>3 Q. Got it. Thank you.</p> <p>4 Do you live alone, or are you married?</p> <p>5 A. Married.</p> <p>6 Q. Any kids?</p> <p>7 A. Two children.</p> <p>8 Q. Thank you.</p> <p>9 Do you have a high school degree or a</p> <p>10 GED?</p> <p>11 A. Yes, I graduated high school.</p> <p>12 Q. And was that in Puerto Rico?</p> <p>13 A. Correct, yes.</p> <p>14 Q. And did you ever attend college?</p> <p>15 A. Yes. I did three years in the University</p> <p>16 of Puerto Rico, but I didn't get my bachelor's.</p> <p>17 Q. Got it. Do you have any other -- sorry.</p> <p>18 Scratch that.</p> <p>19 Did you go to technical school at all?</p> <p>20 A. Well, when I was an employee of the -- the</p> <p>21 authority of the electric energy, I did take some</p> <p>22 courses with them.</p> <p>23 Q. And did you receive any certifications or</p> <p>24 licenses as a result of those courses?</p> <p>25 A. Yes, correct.</p>

1 Q. You said you received a certification of  
2 some sort, right?  
3 A. Yes, as lineman. We call them celador de  
4 lineas, what you guys call lineman.  
5 Q. And did they give you an actual paper  
6 certificate or any sort of document?  
7 A. Yes, sir.  
8 Q. And do you still have that?  
9 A. Yes, sir.  
10 Q. And I'll ask that you please provide that  
11 to your attorney at the end of this deposition. It  
12 doesn't have to happen right now, but at some point  
13 after we're done.  
14 A. Yes. I have it here with me at home.  
15 Q. Thank you.  
16 What did you do for work right after  
17 attending college for three years?  
18 A. To PREPA, Puerto Rico Energy Power  
19 Authority.  
20 Q. And was that your first job after going to  
21 school?  
22 A. Yes, sir.  
23 Q. Where are you currently employed?  
24 A. In Mastec.  
25 Q. And is that -- is that also the

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1 with me in my wallet.  
2 Q. Sure, yeah. And I didn't mean right this  
3 second but, you know, I just wanted to know whether  
4 you have the IDs in your possession or not. And  
5 after our deposition, I'll ask that you please either  
6 send a picture or otherwise give your attorney a copy  
7 of both of those, okay?  
8 A. Okay.  
9 Q. Thank you.  
10 All right. Have you ever been deposed  
11 before or in a deposition?  
12 A. No, never.  
13 Q. I'm sure it's not something you were  
14 looking forward to doing in your life, right?  
15 A. Correct. That is right, but everybody gets  
16 their turn.  
17 Q. I like that. I'll try to refrain from  
18 making any more jokes. I realize that the  
19 translation doesn't land the same.  
20 A. Okay.  
21 Q. All right. Have you ever been part of a  
22 lawsuit in any capacity like this but not in a  
23 deposition?  
24 A. No, never.  
25 Q. Have you ever been charged with any crimes?

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1 intermittent work, or are you now working full-time?  
2 A. Well, right now, this one I've been at for  
3 five, six months. We started in August of '23, and  
4 they haven't told us it's going to finish. So --  
5 Q. What is your job title with Mastec?  
6 A. Journeyman lineman.  
7 Q. And is that similar to the work that you  
8 performed for Cobra?  
9 A. Correct, yes.  
10 Q. So have you always done this kind of work?  
11 A. Well, from some years ago until now because  
12 before, you start as a lineman apprentice and, you  
13 know, as the years go by and you get experience, they  
14 move you up.  
15 Q. Got it. But always the field of work  
16 working on electrical power lines, right?  
17 A. Correct.  
18 Q. Thank you.  
19 And earlier before the deposition  
20 started, you mentioned a driver's license.  
21 Do you have a Puerto Rican driver's  
22 license or a United States one or both?  
23 A. Both.  
24 Q. And do you have a copy of both of those?  
25 A. Well, currently -- copies, no. I have them

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1 A. No, never.  
2 Q. All right. I am going to pull up what I'm  
3 marking as Exhibit Number 1.  
4 MR. SADYKHOV: And, Shauna, after the  
5 deposition, Anthony will send you the exhibits that I  
6 have marked.  
7 (Exhibit 1 marked)  
8 MR. SADYKHOV: Could you please let  
9 Mr. Rodriguez know that I am going to share my screen  
10 for him to be able to look at an exhibit I want to  
11 show him?  
12 Q. (BY MR. SADYKHOV) All right. Can you see  
13 my screen here?  
14 A. Yes.  
15 Q. Have you ever seen this document before?  
16 A. Not that document.  
17 Q. Okay. So I'll just represent to you that  
18 this is the original lawsuit document that you and  
19 your attorneys have filed. And up here at the top,  
20 it says it was filed on February 2nd, 2021.  
21 Does that sound familiar to you?  
22 A. Well, I'm not sure -- I see it now. I  
23 hadn't seen my name, you know. I couldn't see all of  
24 it. Yes, I have seen that document recently.  
25 Q. Okay. Thank you.

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<p>1           Are you aware that the case has been 2 set for trial this December? 3   A. Yes. 4   Q. Do you plan to go to court and attend the 5 trial? 6   A. Yes. 7   Q. All right. Now I want to turn your 8 attention to the defendants listed here at the top. 9 I'm about to highlight them. 10      Do you see what I'm highlighting? 11     A. Yes. Well, I'm seeing what you have 12 highlighted. 13     Q. Correct. Yeah. And those are the 14 defendants that you've sued in this lawsuit. And I 15 just wanted to ask you: Which one of these four 16 defendants did you work for? 17     A. Well, from what I understand, it was Cobra 18 Acquisitions. 19     Q. Have you ever heard of Mammoth Energy 20 Services? 21     A. So yes. There was endless amounts of names 22 of companies that were working out there in Puerto 23 Rico. But me personally, I was hired by Cobra. I 24 worked for Cobra. 25     Q. I appreciate that, Mr. Rodriguez, but my</p>	<p>1           Did you ever get -- I'm sorry. You 2 never got a paycheck from Mammoth, correct? 3   A. No. Yes, no. Well, the very few pay stubs 4 that I saw, they came from Cobra since it was through 5 Paycom and -- well, you know. 6   Q. And we'll talk about Paycom in a little 7 bit, but I appreciate you bringing it up. 8           Did -- did any of your supervisors 9 work for Mammoth? 10     A. I'm unaware of that, if they were. You 11 know, they weren't wearing any clothing that said so, 12 you know. They would just wear the hats and the 13 shirts, but the only name that I saw on those were 14 Cobra. 15     Q. Okay. Did you ever apply for employment 16 with Mammoth? 17     A. No. That I'm aware of, you know. I was 18 under the understanding that Cobra was the one that 19 hired and that I was only working for them. 20     Q. I appreciate the explanation, 21 Mr. Rodriguez. I just want to caution you, I'm 22 actually not trying to -- I'm just trying to get the 23 answers to the questions. The whole deposition will 24 go a lot faster without the extra explanation because 25 my job here is just to find out the information. So</p>
<p>Page 14</p> <p>1 question was just that -- was just whether or not you 2 had heard about Mammoth Energy Services or not. 3   A. Yes, I've heard -- I heard this name, 4 Mammoth Energy. But again, I was hired by Cobra 5 Acquisitions. Did I hear about Mammoth Energy 6 Services? Yes, I did. 7   Q. Thank you. 8           What -- what did you hear about 9 Mammoth? 10     A. Well, no, nothing. You would just, you 11 know, hear the name of the companies that were out in 12 Puerto Rico working for when Hurricane Maria came, 13 you know. I really just -- you know, I just was 14 working. You know, you would hear about these other 15 companies that were working here, but I concentrated 16 on my work, followed instructions from Cobra and, you 17 know, I didn't pay attention to anyone else but what 18 Cobra was telling me, you know. Anything else to me 19 was, well, irrelevant. 20     Q. And so, all you had basically heard about 21 Mammoth was that they were just a different company 22 working on the same kind of work that you guys were 23 doing; is that right? 24     A. Yes. 25     Q. Thank you.</p>	<p>Page 16</p> <p>1 if you could just stick to answering just the 2 question, everything will go a lot faster. For 3 example, I didn't ask, you know, whether you were 4 working for Cobra or being directed by Cobra. I'm 5 only asking about Mammoth. 6   A. Okay. 7   Q. I'm not trying to be a jerk. I just want 8 it to go by fast. 9   A. Understood. 10     Q. Have you ever heard of Higher Power 11 Electrical? 12     A. Yes. 13     Q. And same with Mammoth? You just heard of 14 them as a company working there? 15     A. Yes. 16     Q. Okay. And you never got a paycheck from 17 Higher Power, right? 18     A. No. 19     Q. "No" as in you never got a paycheck from 20 them? 21     A. No. Like a check showing with the 22 watermark saying Higher Power? No. 23     Q. Thank you. 24           And you didn't have any supervisors 25 that worked for Higher Power either, correct?</p>

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1 A. To my understanding, no. I didn't know  
2 anybody from that company, so no.  
3 Q. And did you ever apply for employment with  
4 Higher Power?  
5 A. No.  
6 Q. Thank you. And I think you know where I'm  
7 going next.  
8 Have you ever heard of 5 Star  
9 Electric, LLC?  
10 A. Yes, because of the shirts and the trucks  
11 that I would see that said 5 Star. But again, like  
12 the others, I didn't know anything about them.  
13 Q. Okay. Thank you.  
14 And you never got a paycheck from 5  
15 Star, correct?  
16 A. No. I never received a payment that did  
17 not come from Cobra.  
18 Q. And no supervisors from 5 Star either,  
19 correct?  
20 A. No.  
21 Q. Did you ever apply for employment with 5  
22 Star?  
23 A. Never.  
24 Q. And forgive me if I asked already, but did  
25 you ever apply for employment with Higher Power?

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1 worked with me called me to tell me that a lawsuit  
2 had been placed and that I was -- that it had to do  
3 with me.  
4 Q. When you say it had to do with you, what do  
5 you mean?  
6 A. Well, that it was a class lawsuit and that  
7 I would be part of the people who would be suing.  
8 Q. What was the reason that you understood you  
9 to be suing?  
10 A. For unpaid overtime.  
11 Q. How is it that you're claiming that you  
12 weren't paid overtime?  
13 A. Well, because we had a set rate, and we saw  
14 that there was something that wasn't being paid  
15 completely.  
16 Q. What was it that wasn't being paid  
17 completely?  
18 A. So that, I wouldn't be able to explain.  
19 The detailing of it on the pay stub was confusing, so  
20 I wouldn't be able to answer because I don't  
21 understand it. But from what I'm aware of, it's,  
22 well, unpaid overtime.  
23 Q. Thank you. I appreciate that. And to the  
24 extent that it's true, "I don't know" is perfectly  
25 fine. Don't feel like you can't answer with that.

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1 A. Never.  
2 Q. Thank you.  
3 So going back to the complaint real  
4 quick. Like I mentioned, it was filed on  
5 February 2nd of 2021.  
6 Do you see where I'm highlighting  
7 that?  
8 A. Yes.  
9 Q. Thank you.  
10 And I have your -- in the records,  
11 your termination date is shown as -- or your last  
12 date working for Cobra is shown as April 6th, 2019,  
13 although I think that your last day of employment  
14 might have been -- your last full day of work might  
15 have been March 15th of 2019.  
16 Does any of that sound familiar?  
17 A. I don't remember. I don't recall.  
18 Q. Does it sound familiar that you last worked  
19 for Cobra sometime in the first half of 2019?  
20 A. Yes. Towards the beginning of 2019, I was  
21 still employed with them.  
22 Q. In between your last day working for Cobra  
23 in 2019 and when this lawsuit was filed in February  
24 of 2021, how did you find out that you had a claim?  
25 A. Well, because some of the people that had

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1 And did you talk to your lawyer,  
2 Mr. Welmaker, before the case was filed? Let me  
3 preface that. I don't want to know what you talked  
4 about with your attorney. I just want to know  
5 whether or not you spoke with your attorney before  
6 the case was filed.  
7 A. So we did have one. But when all of this  
8 was going on, I wasn't, like, one of the people who  
9 was doing most of the things. I was, like, one of  
10 the last ones to know since, well, I live far, you  
11 know. So I was kind of like the last one to find out  
12 about where the process was going. I think even  
13 after they changed attorneys to attorney Douglas from  
14 another law firm. But I've never been -- you know,  
15 I've been informed, but not completely informed of  
16 everything.  
17 Q. Okay. Did you sign an agreement with  
18 Mr. Welmaker?  
19 A. I'm not really quite sure what you're  
20 trying to ask me, if I signed an agreement with him.  
21 I'm not sure what --  
22 Q. Yeah, sure. I understand.  
23 Did you sign a retainer agreement or  
24 any agreement for Mr. Welmaker to be your attorney?  
25 A. From what I understand, yes. You know, we

Page 21

6 (Pages 18 - 21)

1 got -- I'm not quite sure how it happened. We did  
 2 get papers. Some of it were in English. So I'm not  
 3 a hundred percent sure how it happened, but I'm sure  
 4 that at one point he must have told me that he was  
 5 going to be representing me and that I said yes and  
 6 that I was in agreement that he continued  
 7 representing.

8 Q. And you had mentioned some other  
 9 ex-co-workers of yours that you said were kind of --  
 10 had led or at least notified you about the lawsuit  
 11 and were kind of taking a more active role in it than  
 12 you are.

13 Are -- and I'm going to go ahead and  
 14 read a list of four names -- three names, and just  
 15 let me know if those were those co-workers, okay?

16 A. So I would like to remind you that, you  
 17 know, some of these -- if you're going to ask me  
 18 about, like, the American people, I may be able to  
 19 remember one or, you know, maybe not. Some of these  
 20 people, you know, they were from Oklahoma, and we  
 21 just worked together.

22 So I don't, you know, really remember  
 23 everybody's name. So I'm not sure if I'll be able to  
 24 answer that question for you. I remember the people  
 25 that were on my group; but, again, I'm not sure I'll

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1 MR. SADYKHOV: Okay. Hey, Doug, I  
 2 think we're at a good breaking point. Say, like,  
 3 five minutes? Is that cool?

4 MR. WELMAKER: Yeah, sure.

5 (Recess from 3:00 p.m. to 3:08 p.m.)

6 Q. (BY MR. SADYKHOV) Mr. Rodriguez, you  
 7 understand that we're back on the record and that  
 8 you're still under oath?

9 You're muted, Mr. Rodriguez.

10 A. Okay.

11 Q. Do you understand that you're still under  
 12 oath?

13 A. I understand, yes.

14 Q. Okay. Thank you.

15 Did you do anything to prepare for  
 16 your deposition today?

17 A. No.

18 Q. Okay. Did -- and again, I don't want to  
 19 know what you said, the substance of what you said,  
 20 but did you speak with Mr. Welmaker before the  
 21 deposition today?

22 A. So, no. All I got was a message saying  
 23 that I had to download the Zoom app and that I had to  
 24 take the day off because 2:00 p.m. Texas time is  
 25 3:00 p.m. Puerto Rico time. I had to be somewhere

Page 24

1 be able to answer that truly.

2 Q. Okay. No problem. If you don't know, you  
 3 don't know. That's all right.

4 Was one of the gentlemen you spoke  
 5 with about the lawsuit Juan Santiago?

6 A. No.

7 Q. What about Miguel Rosario?

8 A. Yes, I do know Miguel Rosario.

9 Q. What did you-all discuss about the case?

10 A. Well, that there was a case because of the  
 11 overtime and that there were some people that were in  
 12 charge of making the lawsuit and that they would let  
 13 me know.

14 Q. Did he mention who the people in charge of  
 15 making the lawsuit were?

16 A. No, never.

17 Q. Okay. Did you know Mr. Jorge Rivera?

18 A. Yes.

19 Q. And what did you discuss concerning the  
 20 lawsuit with him?

21 A. No, nothing. You know, to stay aware of  
 22 everything, to keep myself in the game, to answer and  
 23 make sure to follow up and, you know, to -- if they  
 24 call, to answer and make sure that the process keeps  
 25 going, you know. That was it.

Page 23

1 where there wasn't any noise or anything to take the  
 2 call for my deposition.

3 Q. And when -- when did you receive that text?  
 4 Do you recall?

5 A. Well, no. You know, just -- it was last  
 6 week. They told us that they were going to be taking  
 7 our statements and that I just -- you know, to be  
 8 careful to not let the -- be aware of the date and  
 9 for me not to -- for me to be able to do my -- my  
 10 deposition, to take the day from work to be somewhere  
 11 where I had phone signal and there wasn't any noise  
 12 because it was going to be through Zoom. And  
 13 yesterday I received another e-mail just telling me  
 14 how to, you know, log in and understand everything  
 15 and to be ready by 2:45.

16 Q. And you received that text from your  
 17 attorney or from someone else?

18 A. It's from the attorney only, and it's the  
 19 text from Douglas Welmaker.

20 Q. Okay. Thank you. Did you -- actually,  
 21 scratch that.

22 So I guess it's safe to assume you  
 23 didn't review any documents to prepare for today,  
 24 correct?

25 A. I don't have any documents, you know. I

Page 25

7 (Pages 22 - 25)

1 wasn't a foreman, nor a GF. Nothing. You know, you  
2 have documents. You probably have more documents  
3 than I do. I don't have any.

4 Q. And so, like I mentioned earlier, my  
5 question was actually a little bit different, and I'm  
6 just asking you to answer my questions. My only  
7 question was whether or not you had reviewed any  
8 documents, not whether or not you have any documents.

9 But my understanding is you didn't  
10 review any; is that correct?

11 A. I did not review any documents.

12 Q. Thank you.

13 Did you speak with any of your  
14 ex-co-workers or any of the other plaintiffs in this  
15 lawsuit before today?

16 A. No. Only to text us to ask us if we had  
17 been put on the list to do, well, this interview that  
18 you are doing right now.

19 Q. Did you discuss this lawsuit or your claims  
20 with any of the other plaintiffs who have filed the  
21 lawsuit with you?

22 A. Well, no. Only, you know, the comments of,  
23 you know, if -- how the case was going and, you know,  
24 to try to see where the process were and try to  
25 inform myself. You know, just the basic things,

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1 understand that it was because there was some  
2 overtime that it wasn't paid and that's why the  
3 lawsuit was made, you know. I said that I couldn't  
4 give you the data with it because from what I  
5 understood, the pay stubs for the check didn't  
6 specify how they were detailing the payment. And  
7 when we saw that the money was missing, that's when I  
8 went on the lawsuit.

9 Q. (BY MR. SADYKHOV) Okay. Well, since you  
10 brought up the pay stubs and the checks, why don't we  
11 take a look at some of the ones that you've produced  
12 just recently to us in this case?

13 Do you recall producing pay stubs to  
14 us, giving them to your lawyer?

15 A. Well, you have to ask him about that. He  
16 has all that. I don't.

17 Q. Okay. Give me one second. I'm going to  
18 share my screen and mark what we're calling  
19 Exhibit 2, I believe. So this will be Exhibit 2.

20 (Exhibit 2 marked)

21 Q. (BY MR. SADYKHOV) Can you see my screen  
22 here?

23 A. Yes.

24 Q. Does this document look familiar to you?

25 A. Well, from the name that I see there, it's

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1 seeing if somebody had any information of what was  
2 going on.

3 Q. And earlier you testified that you weren't  
4 quite sure what the reason for your claim is. You  
5 know that you're owed overtime, but you don't know  
6 why it is that you're owed it; is that correct?

7 A. Well, no. I understand that it's because  
8 of nonpayment of overtime since we didn't see how  
9 they were detailing the payments.

10 Q. Did you try to clarify that point with the  
11 other plaintiffs?

12 A. Well, no, never really. You know, I'm very  
13 busy with work, and I never actually talked to them  
14 about it, you know. Just only about, you know, that  
15 I was going to be waiting for them, you know, to see  
16 what happens. But, you know -- but from what I'm  
17 aware of, you know, it's just for unpaid overtime.

18 Q. But you put your name on the lawsuit,  
19 correct?

20 A. That's correct, yes.

21 Q. And so, you put your name on the lawsuit  
22 without knowing what your -- what exactly you are  
23 claiming?

24 MR. WELMAKER: Object to form.

25 A. So I'll repeat it again. You know, I

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1 one of my pay stubs from my payments.

2 Q. And you don't recall giving this and these  
3 other pay stubs to your attorney?

4 A. Well, I don't know. These, probably they  
5 got them from the company, you know. That's  
6 probably -- I don't know where they got them from  
7 because once the job was over, I didn't have any more  
8 access to Paycom to look at it.

9 Q. Mr. Rodriguez, do you remember -- or were  
10 you asked to search for documents in response to a  
11 request made by the defendants in this case?

12 A. Well, I don't know. I might have had one  
13 copy just as evidence to prove that I worked with  
14 them at one point. But, you know, as far as all of  
15 this, they might have done it from the company.

16 Q. My question, again, was a little bit  
17 different.

18 Were you asked to go look for  
19 documents or did you look for documents in response  
20 to a request by the defendants in this case?

21 INTERPRETER: Come again on the  
22 question, Counsel.

23 Q. (BY MR. SADYKHOV) Yeah. My question was a  
24 little different. My question was: Did you look for  
25 responsive or relevant documents in response to a

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8 (Pages 26 - 29)

<p>1 request by the defendants in this case?</p> <p>2 A. Well, I just had, like, two or three stubs,</p> <p>3 you know, like I said before. I never kept them.</p> <p>4 You know, maybe one, two, or three stubs that I had</p> <p>5 kept. That's it.</p> <p>6 Q. So you did give some paychecks or pay stubs</p> <p>7 to your attorney, correct?</p> <p>8 A. I don't recall. I don't recall doing so,</p> <p>9 you know. If they have that documentation, they must</p> <p>10 have gotten it from the company.</p> <p>11 Q. Mr. Rodriguez, how would -- how would your</p> <p>12 attorneys have gotten this document from the company,</p> <p>13 and why would they then produce it in response to our</p> <p>14 request for documents?</p> <p>15 Are you sure you did not give this</p> <p>16 document to your attorney?</p> <p>17 A. I honestly cannot tell you because I don't</p> <p>18 remember doing so. You know, at the beginning that</p> <p>19 this all began, I might have sent it to them. But I</p> <p>20 don't know. Like I said, you know, I looked at the</p> <p>21 information. I might have taken two or three screen</p> <p>22 shots of the Paycom. If I did send it to them, I</p> <p>23 don't know.</p> <p>24 Q. So it's at least possible that you gave the</p> <p>25 document we're looking at to your lawyer, right?</p>	<p>1 not the question that I asked you. And I'm going to</p> <p>2 ask that you please only answer the questions that</p> <p>3 I'm asking you or else our Friday is going to drag on</p> <p>4 a long time. Please just answer yes or no.</p> <p>5 You did not look for documents because</p> <p>6 you didn't have any, right?</p> <p>7 A. When you are referring to documents, are</p> <p>8 you referring to the pay stubs?</p> <p>9 Q. Any documents. For instance, do you</p> <p>10 remember signing an employment agreement with Cobra?</p> <p>11 A. Yes.</p> <p>12 Q. Do you still have that document?</p> <p>13 MR. SADYKHOV: That didn't sound like</p> <p>14 a yes or no.</p> <p>15 MR. WELMAKER: Do you want me to try</p> <p>16 and say something?</p> <p>17 MR. SADYKHOV: Yeah, if you want to go</p> <p>18 off the record -- let's go off the record real quick,</p> <p>19 Shauna.</p> <p>20 (Recess from 3:35 p.m. to 3:36 p.m.)</p> <p>21 Q. (BY MR. SADYKHOV) All right.</p> <p>22 Mr. Rodriguez, I'll just ask again. Like I said,</p> <p>23 just to keep the record clean -- again, I'm not</p> <p>24 trying to be a jerk. I just need clean answers and a</p> <p>25 clean record.</p>
<p>Page 30</p> <p>1 It's at least possible?</p> <p>2 A. The only thing -- the only thing that I can</p> <p>3 tell you is that I don't remember if I did or not</p> <p>4 because I don't know.</p> <p>5 Q. That's fair.</p> <p>6 So going back to my question earlier,</p> <p>7 did you look around your house or your office or</p> <p>8 anything like that for documents that are relevant to</p> <p>9 the case?</p> <p>10 A. I didn't have any. The only thing that I</p> <p>11 could have had was from Paycom. So I never looked</p> <p>12 because I knew I didn't have anything. Nothing ever</p> <p>13 came in the mail or anything for me. You know, all I</p> <p>14 did was whenever payday came along, I went to see if</p> <p>15 the payment was made and that was it.</p> <p>16 Q. I think I understand. So just to make sure</p> <p>17 I got your testimony clearly, you did not search for</p> <p>18 any documents in response to requests by the</p> <p>19 defendants, correct?</p> <p>20 A. Well, I had seen that I wasn't being paid</p> <p>21 overtime, you know, that I was only being paid daily</p> <p>22 rate, just for a rate.</p> <p>23 MR. SADYKHOV: I'm going to object as</p> <p>24 nonresponsive.</p> <p>25 Q. (BY MR. SADYKHOV) Mr. Rodriguez, that's</p>	<p>Page 32</p> <p>1 So you did not look for documents in</p> <p>2 response to requests by defendants, correct?</p> <p>3 A. Yes, I looked for the documents. I looked</p> <p>4 for the stubs to verify they were paying me right,</p> <p>5 and I did. I did look.</p> <p>6 Q. In connection with this lawsuit, correct?</p> <p>7 A. Correct.</p> <p>8 Q. Where did you look?</p> <p>9 A. In the pictures that I had from Paycom.</p> <p>10 Q. Did you look for any -- and again, like,</p> <p>11 for instance, your contract or any other physical</p> <p>12 documents in your house or anywhere else?</p> <p>13 A. No, no.</p> <p>14 Q. So -- one second. One of the documents</p> <p>15 that we had requested from you in this case was to</p> <p>16 produce any documents relating to any licenses,</p> <p>17 agreements, or certifications.</p> <p>18 Are you aware that we've requested</p> <p>19 that in this case?</p> <p>20 A. No.</p> <p>21 Q. In your discovery responses, you had said</p> <p>22 that you don't have any of those kind of documents;</p> <p>23 but earlier you testified that you do have one of</p> <p>24 your certifications at least, correct?</p> <p>25 MR. WELMAKER: That's my fault. I</p>

9 (Pages 30 - 33)

<p>1 didn't follow up with some of those with him. So --</p> <p>2 MR. SADYKHOV: Okay.</p> <p>3 MR. WELMAKER: I'll go back and</p> <p>4 supplement what we don't --</p> <p>5 MR. SADYKHOV: Yeah.</p> <p>6 A. You guys asked, and I -- so the thing is</p> <p>7 that, you know, you asked me about the certification</p> <p>8 and, you know, as a lineman, that's why I was able to</p> <p>9 get a job as a lineman. Well, they never actually</p> <p>10 even asked me for it since they already knew that I</p> <p>11 worked as a lineman. So the -- the company never</p> <p>12 asked for it because they knew that I was a</p> <p>13 journeyman lineman.</p> <p>14 Q. (BY MR. SADYKHOV) I understand that. And</p> <p>15 again, I appreciate it, but my reasons for asking are</p> <p>16 a little bit different and, candidly, my reasons are</p> <p>17 for me to know. All I'm trying to do here is to get</p> <p>18 information about stuff that I'm allowed to find out</p> <p>19 about. So I'm not trying to trick you. I just want</p> <p>20 you to answer the question that I've asked. And in</p> <p>21 this case, I'm just asking about some of the</p> <p>22 documents.</p> <p>23 One of the other documents that we</p> <p>24 asked for, for example, was, you know, your driver's</p> <p>25 license. And again, I understand that you do have</p>	<p>1 (Discussion off the record)</p> <p>2 Q. (BY MR. SADYKHOV) You said earlier,</p> <p>3 Mr. Rodriguez, that you received the invitation</p> <p>4 orally; is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. And do you remember who called you to give</p> <p>7 you the offer?</p> <p>8 A. Yes.</p> <p>9 Q. Thank you. You're doing a really great job</p> <p>10 of answering just what I'm asking. Go ahead.</p> <p>11 A. Go ahead.</p> <p>12 Q. Now I'll ask: So who was the person who</p> <p>13 called?</p> <p>14 A. Waylon Gore.</p> <p>15 Q. And what did he tell you when he called</p> <p>16 you?</p> <p>17 A. Well, that he found out that we could work</p> <p>18 and that if I wanted to take some work here working</p> <p>19 with the Hurricane Maria.</p> <p>20 Q. And did he tell you anything about how you</p> <p>21 would be paid?</p> <p>22 A. No.</p> <p>23 Q. And you decided to go to Puerto Rico</p> <p>24 without knowing how you would be compensated for the</p> <p>25 work?</p>
<p style="text-align: right;">Page 34</p> <p>1 that, but that's something that we'll work out with</p> <p>2 your attorney. That's between us.</p> <p>3 So I just want you to answer the</p> <p>4 questions that I'm asking you, okay? You don't need</p> <p>5 to elaborate unless I ask. Is that okay?</p> <p>6 A. Okay.</p> <p>7 Q. All right. Did you ever receive an offer</p> <p>8 letter from Cobra? And by "offer letter," I mean an</p> <p>9 offer of employment.</p> <p>10 A. No.</p> <p>11 Q. You don't remember receiving a letter that</p> <p>12 has, you know, an offer with hours and then signing</p> <p>13 it and returning it back, or like an hourly rate?</p> <p>14 A. And so, no. They called me. They told me</p> <p>15 to report to the office. You know, they just sent me</p> <p>16 an invitation if I wanted to work for them, to report</p> <p>17 at the office, fill out some paperwork and, once it</p> <p>18 was ready, I would be ready to work.</p> <p>19 MR. WELMAKER: Can we go off the</p> <p>20 record one more time?</p> <p>21 MR. SADYKHOV: Yes, please.</p> <p>22 (Recess from 3:44 p.m. to 3:45 p.m.)</p> <p>23 Q. (BY MR. SADYKHOV) So did someone call you</p> <p>24 to give you that offer?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. That all the information would be given to</p> <p>2 me at the office when the paperwork was done.</p> <p>3 Q. But without knowing how much your</p> <p>4 compensation would be, how did you know it would be</p> <p>5 worth it to go there for the job?</p> <p>6 A. Well, because of experience. I'll talk to</p> <p>7 somebody else who is working over there as a lineman</p> <p>8 or a journeyman, and they tell me and how much they</p> <p>9 are making and I can more or less see how much they</p> <p>10 are paid.</p> <p>11 Q. I think I understand. So basically you</p> <p>12 didn't know exactly how much you would be paid, but</p> <p>13 you thought it would be more than you were being paid</p> <p>14 at the time.</p> <p>15 Is that a fair statement?</p> <p>16 A. Well, no. I wasn't working anywhere at the</p> <p>17 time.</p> <p>18 Q. I understand. Got it. So there was</p> <p>19 nothing to compare it to, right?</p> <p>20 A. Exactly, because I wasn't working.</p> <p>21 Q. Understood. Thank you.</p> <p>22 When did you first find out -- I'm</p> <p>23 sorry. Scratch that.</p> <p>24 Did Waylon say anything about how you</p> <p>25 would be paid, the method of payment?</p>

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10 (Pages 34 - 37)

1 A. No.  
 2 Q. So he didn't say anything about it being  
 3 hourly pay or a salary or anything like that?  
 4 A. No. They told me at the office.  
 5 Q. And when you say "the office," is that in  
 6 Puerto Rico?  
 7 A. Yes. Where they sent me to fill out the  
 8 paperwork, the office in Puerto Rico, yes.  
 9 Q. And that was during your orientation,  
 10 correct?  
 11 A. Correct.  
 12 Q. Do you recall attending that orientation?  
 13 A. Yes.  
 14 Q. Give me one second.  
 15 Do you remember what was discussed at  
 16 the orientation?  
 17 A. No.  
 18 Q. Do you recall if that's when you were first  
 19 told about your rate of pay?  
 20 A. Yes.  
 21 Q. Do you recall what you were told about your  
 22 rate of pay?  
 23 A. Yes. A thousand dollars a day.  
 24 Q. Did anyone mention anything about that  
 25 daily rate being broken down into an hourly rate?

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1 But like clock-out time, there wasn't never a  
 2 clock-out time.  
 3 Q. How did you know when it was time to go  
 4 home for the day?  
 5 A. Well, that, I didn't decide. It was either  
 6 the foreman or the GF would come and they would say  
 7 the weather -- it started raining and there wasn't  
 8 any visibility and that was it for work that day.  
 9 Q. But if the -- so I guess if the sun went  
 10 down, you wouldn't have enough visibility to work,  
 11 correct?  
 12 A. Correct. So sometimes we have lights, but  
 13 sometimes we were up in the mountains, too, and there  
 14 was fog. And because of it, you know, we couldn't --  
 15 we couldn't work.  
 16 Q. So on a clear day with perfect visibility,  
 17 perfect weather, how do you know when to end the day?  
 18 A. Like I said, I wasn't the GF. I was a  
 19 lineman -- nor a foreman, so I wasn't the person who  
 20 decided that.  
 21 Q. So your day ended when your supervisor told  
 22 you to go home, right?  
 23 A. Exactly. Well, they were the bosses, you  
 24 know, and they were the ones who decided until when  
 25 we were going to have to work.

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1 A. No, no.  
 2 Q. Do you recall filling out paperwork at the  
 3 orientation?  
 4 A. I don't remember.  
 5 Q. Okay. Did they ever discuss your shifts or  
 6 how many hours you would be working at the  
 7 orientation?  
 8 A. They didn't talk about a shift. They just  
 9 said about re-establishing the electrical service  
 10 and, once done, taking the day off.  
 11 Q. I'm sorry. Say that last part again.  
 12 A. And once it was done, taking the day off.  
 13 Q. Got it. So what you mean is at the end of  
 14 the day when you were done working for the day, you  
 15 were free to go is what you're saying?  
 16 A. Well, we would work until, you know, the  
 17 visibility or the weather would, you know -- as much  
 18 as it would allow us.  
 19 Q. Is it fair to say that your shift was sun  
 20 up to sun down?  
 21 A. You could say yes.  
 22 Q. Did you have a certain set shift schedule?  
 23 Did you have to be there at a certain time and end at  
 24 a certain time?  
 25 A. Only to start work at 6:00 in the morning.

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1 Q. Got it. I'm just trying to go through and  
 2 cut out some of these questions.  
 3 What was -- what was your -- so, I  
 4 guess, did you ever work more than 16 hours in a day,  
 5 to your recollection?  
 6 A. More than 16 hours? No.  
 7 Q. What would you say is the maximum number of  
 8 hours in a day that you had to work when you were  
 9 employed by Cobra?  
 10 A. 16.  
 11 Q. Okay. So 16 was the maximum?  
 12 A. If I'm not mistaken, I think the most that  
 13 we worked were 16.  
 14 Q. Because you mentioned that you would start  
 15 at 6:00 a.m. And so, 12 hours of work would be  
 16 6:00 p.m. And 16 hours of work, that means you would  
 17 be getting off at 10:00 p.m.  
 18 Does that sound familiar?  
 19 A. Yes, up until 10:00.  
 20 Q. Thank you for clarifying that. I  
 21 appreciate it.  
 22 And did you work seven days a week?  
 23 A. Yes.  
 24 Q. At the end of the day -- actually, sorry.  
 25 Let me ask this.

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11 (Pages 38 - 41)

<p>1           While you were working for Cobra,  2 where did you live on the island?  3   A. In Gurabo, Puerto Rico.  4   Q. And did you go home at the end of the day,  5 or did you stay in a hotel?  6   A. I went home.  7   Q. Is it the same home that -- that we talked  8 about earlier when we started the deposition?  9   A. Yes.  10   Q. And so, you never had to stay at a hotel?  11 You always got to go home?  12   A. Well, I had the hotel. But, you know,  13 since I had a home, you know, whenever I could, I  14 would go back to the house. If it was too late, then  15 I would stay, you know, where they had available for  16 us to stay.  17   Q. So it just depended on the situation?  18   A. Yes, because -- you know, if it was far  19 away. But if I could, I would go back. But if not,  20 I would stay wherever they had us stay.  21   Q. Would it be fair to say on days when you  22 worked 16 hours you would stay at the hotel versus  23 going home?  24   A. Affirmative.  25   Q. To the hotel?</p>	<p>1 on standby, never.  2   Q. What do you mean by it was spoken of?  3   A. Well, I actually never heard them say  4 anything. I know that in our line of work they do  5 have some workers that they put on standby for  6 electrical. But me myself, nor any group that I  7 worked close with, Cobra told us that we were on  8 standby or told them that they were on standby.  9   Q. I understand that no one told you that you  10 were on standby, but my question was a little bit  11 different.  12       My question was: You understood, did  13 you not, that after your shift if you were called  14 back for emergency that you would be expected to go  15 back, correct?  16   A. Well, in our line of work, that is done.  17 But I was never told before going home to be ready to  18 turn back around to come back to work.  19   Q. I understand that you were never told that.  20 And again, that's not what I was asking. That will  21 be a question for later.  22       What I'm asking is: You understood,  23 did you not, that if there was an emergency, you  24 might be required to go back to work?  25   A. Yes, yes.</p>
<p>1   A. Yes.  2   Q. Do you -- let me ask it this way.  3       Can you estimate how many times you  4 had to stay at the hotel versus going home? A rough  5 percentage is fine.  6   A. I don't recall, but normally I would stay  7 where they had us stay because I was about an hour  8 and a half away from home. It was far.  9   Q. So more often than not, you would stay at  10 the hotel?  11   A. Yes. Yes, due to tiredness and the  12 distance.  13   Q. So would it be fair to say that more often  14 than not, you worked close to 16 hours?  15   A. I couldn't answer that question. It was so  16 much going on. I wouldn't be able to give you an  17 accurate answer. I don't know.  18   Q. Okay. "I don't know" is fine. Thank you.  19       So when you went -- when you were done  20 at the end of your shift -- at the end of the  21 workday, you understood that if there was some sort  22 of emergency, you could be called back to come back  23 to work, correct?  24   A. So we never -- well, it was spoken of. But  25 myself personally that they told me that I would be</p>	<p>1   Q. Thank you.  2       And if they had called you back and  3 you didn't show up or you just refused, what do you  4 think would happen? Would they fire you?  5   A. Well, they would have suspended me. I  6 don't know the rules. Suspension or fired me.  7   Q. Okay. Thank you.  8       And earlier you mentioned that there  9 wasn't a set amount of hours that you would work in  10 one shift; is that correct?  11   A. That's correct.  12   Q. So if you had been there from 6:00 a.m. to  13 6:00 p.m. but there was some work that required you  14 to stay until 7:00 or 8:00, you couldn't just refuse  15 and go home, correct?  16   A. Correct. We left when the scheduled work  17 for that day was completed.  18   Q. And that -- whenever the scheduled work was  19 completed, that was dictated by Cobra, correct?  20   A. Correct.  21   Q. And so, you had to listen to what your  22 supervisor said, right?  23   A. Correct.  24   Q. And you could be suspended or fired if you  25 didn't listen, right?</p>

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12 (Pages 42 - 45)

<p>1 A. Correct.</p> <p>2 Q. Thank you.</p> <p>3 And all of what we've been talking</p> <p>4 about -- you know, following supervisor directions,</p> <p>5 staying as long as needed to get the job done -- you</p> <p>6 understood that all to be part of your working</p> <p>7 relationship with Cobra, your agreement with Cobra.</p> <p>8 Is that fair to say?</p> <p>9 INTERPRETER: Can you come again on</p> <p>10 that question, Counsel?</p> <p>11 Q. (BY MR. SADYKHOV) Yeah. Everything that</p> <p>12 we've been talking about, it forms part of your</p> <p>13 agreement or your working relationship with Cobra?</p> <p>14 MR. WELMAKER: Objection. Form.</p> <p>15 Q. (BY MR. SADYKHOV) You can still answer,</p> <p>16 Mr. Rodriguez.</p> <p>17 A. Can you repeat the question? Or was it</p> <p>18 decided that I shouldn't answer the question? I</p> <p>19 didn't understand what my attorney had said.</p> <p>20 MR. WELMAKER: Any time I object,</p> <p>21 unless I specifically tell you not to answer, you can</p> <p>22 go ahead and answer.</p> <p>23 A. So should I answer in this case or not?</p> <p>24 Q. (BY MR. SADYKHOV) Yes, please.</p> <p>25 A. Could you repeat the question, please?</p>	Page 46	<p>1 Q. No problem. We got it fixed.</p> <p>2 All right. Before -- before working</p> <p>3 for Cobra, had you ever done storm work before?</p> <p>4 A. Yes.</p> <p>5 Q. When and where?</p> <p>6 A. In Puerto Rico.</p> <p>7 Q. When was that?</p> <p>8 A. George.</p> <p>9 Q. And then later Maria and Irma, correct?</p> <p>10 A. So in 1989, Hurricane Hugo. 1998,</p> <p>11 Hurricane George and Maria. So those.</p> <p>12 Q. What was the company that you worked for?</p> <p>13 A. PREPA, Puerto Rico Energy Power Authority.</p> <p>14 Q. How did you hear about the -- the storm</p> <p>15 work opportunity for Hurricane Maria?</p> <p>16 A. So since I had already worked in Puerto</p> <p>17 Rico with PREPA, you know, they -- one way or</p> <p>18 another, they knew that I knew the system and the</p> <p>19 geography in Puerto Rico. I had actually retired</p> <p>20 right when the hurricane came in 2017, and they must</p> <p>21 have got my number, Mr. Waylon Gore, and he offered</p> <p>22 work since I knew the area.</p> <p>23 Q. And you had never worked for Cobra before</p> <p>24 you took on the Hurricane Maria job, right?</p> <p>25 A. No.</p>	Page 48
<p>1 MR. SADYKHOV: Shauna, could you</p> <p>2 please repeat that?</p> <p>3 (The record was read as requested.)</p> <p>4 A. Yes. I only followed instructions from my</p> <p>5 foreman, whatever they would say, if we kept working,</p> <p>6 if we stopped working, you know. Either the GF or</p> <p>7 the foreman, you know, whatever they would say.</p> <p>8 Q. (BY MR. SADYKHOV) And that was your</p> <p>9 understanding of your agreement with Cobra, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Thank you.</p> <p>12 MR. SADYKHOV: I think now would be a</p> <p>13 good time for a five-minute break. We've been going</p> <p>14 over an hour.</p> <p>15 (Recess from 4:16 p.m. to 4:31 p.m.)</p> <p>16 Q. (BY MR. SADYKHOV) Mr. Rodriguez, before --</p> <p>17 A. Yes.</p> <p>18 (Discussion off the record)</p> <p>19 MR. SADYKHOV: Let's go off the</p> <p>20 record.</p> <p>21 (Recess from 4:32 p.m. to 4:34 p.m.)</p> <p>22 Q. (BY MR. SADYKHOV) Mr. Rodriguez, are you</p> <p>23 ready to go back on the record?</p> <p>24 A. I'm ready. Something went wrong with the</p> <p>25 volume of the phone.</p>	Page 47	<p>1 Q. Why did you stop working for Cobra?</p> <p>2 A. So I didn't -- once they left Puerto Rico,</p> <p>3 then I no longer wanted to, you know, keep working</p> <p>4 with them since the contract in Puerto Rico was over.</p> <p>5 So I didn't want to keep working with them.</p> <p>6 Q. Got it. And your job title was operator;</p> <p>7 is that correct?</p> <p>8 A. No. Journeyman lineman.</p> <p>9 Q. Thank you. Sorry about that. 4:40 on a</p> <p>10 Friday in Texas.</p> <p>11 All right. Who did you -- what was</p> <p>12 the name of your supervisor that you reported to?</p> <p>13 A. Estevan. So Steve was -- his name was</p> <p>14 Estevan. He was, like, a Mexican-American. His last</p> <p>15 name was Olivares.</p> <p>16 Q. Estevan Olivares?</p> <p>17 A. I'm going to write it down on a piece of</p> <p>18 paper to show it to you.</p> <p>19 Q. Thank you for that.</p> <p>20 A. That was my foreman.</p> <p>21 Q. Got it. Thank you.</p> <p>22 Before you went out to the work site</p> <p>23 for the day, was there somewhere where you gathered</p> <p>24 with the other members of your crew?</p> <p>25 A. Correct.</p>	Page 49

13 (Pages 46 - 49)

<p>1 Q. Was that the yard?</p> <p>2 A. The yard is correct. That's right. The</p> <p>3 yard. Do you need me to tell you the town it's in,</p> <p>4 or have you asked me that yet?</p> <p>5 Q. I don't think I asked, but go ahead and let</p> <p>6 me know. What town was the yard in?</p> <p>7 A. Yabucoa, Puerto Rico.</p> <p>8 Q. Always the same -- same yard?</p> <p>9 A. We did change yards. Not the same.</p> <p>10 Q. Okay. Do you recall around how many times,</p> <p>11 how many different yards?</p> <p>12 A. So in Yabucoa in Roosevelt Road. In Ceiba</p> <p>13 in the rainforest, El Yunque.</p> <p>14 Q. I think our reporter needs clarification on</p> <p>15 the spelling.</p> <p>16 INTERPRETER: I'll go ahead and</p> <p>17 suggest the spelling for Yabucoa. I believe that's</p> <p>18 Y-A-B-U-C-O-A. Roosevelt Road, that's in English, I</p> <p>19 believe. Ceiba, C-E-I-B-A. And El Yunque is E-L</p> <p>20 space Y-U-N-Q-U-E.</p> <p>21 Q. (BY MR. SADYKHOV) Did you pick up your</p> <p>22 equipment for the day in the yard also?</p> <p>23 A. Yes.</p> <p>24 Q. And where did you -- let me ask you this.</p> <p>25 Did Cobra provide you with any meals?</p>	<p>1 A. Yes.</p> <p>2 Q. Have you ever seen a document like this</p> <p>3 before?</p> <p>4 MR. SADYKHOV: I can zoom in or scroll</p> <p>5 down, whatever he needs me to do.</p> <p>6 A. Can you make it larger for me, please? I'm</p> <p>7 not sure here if this is a pay stub or what kind of</p> <p>8 chart this is.</p> <p>9 Q. (BY MR. SADYKHOV) It's -- so it's</p> <p>10 basically -- it's a time detail report. And so, it's</p> <p>11 a report that we got from the company that --</p> <p>12 (Simultaneous cross-talk.)</p> <p>13 Q. (BY MR. SADYKHOV) So you have never seen</p> <p>14 this document before, right?</p> <p>15 A. No.</p> <p>16 Q. This is your name at the top, though,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. You never filled out any sort of time</p> <p>20 sheets or hours reports, did you?</p> <p>21 A. No. The foreman did that.</p> <p>22 Q. Okay. And the foreman was Estevan</p> <p>23 Olivares?</p> <p>24 A. I understand that to be so, but I don't</p> <p>25 know if it was him or not and when they did it or</p>
<p style="text-align: center;">Page 50</p> <p>1 A. So, they would not give us any food. They</p> <p>2 would give us time to go buy and get the food or</p> <p>3 bring it if needed, but they would not provide us</p> <p>4 with the food.</p> <p>5 Q. And they didn't feed you guys at the hotel?</p> <p>6 A. Sometimes, depending on the time you were</p> <p>7 able to make it back, you would be able to catch some</p> <p>8 food, but sometimes there wasn't any.</p> <p>9 Q. Okay. But you were able to eat your</p> <p>10 regular meals whenever you normally did, right? You</p> <p>11 were able to eat your breakfast, lunch, and dinner</p> <p>12 while working?</p> <p>13 A. Well, we always ate. With this type of</p> <p>14 work, you had to have something to eat, even if it</p> <p>15 meant just eating something quickly and continuing</p> <p>16 work. But we had to eat.</p> <p>17 Q. Okay. I'm going to pull up on my screen</p> <p>18 what I'm marking as Exhibit 3, I believe. I told</p> <p>19 myself I wasn't going to lose track, but I did. I</p> <p>20 think we're on 3.</p> <p>21 COURT REPORTER: That's correct.</p> <p>22 (Exhibit 3 marked)</p> <p>23 Q. (BY MR. SADYKHOV) Okay. I'm going to</p> <p>24 share my screen. Mr. Rodriguez, can you see this</p> <p>25 document that I have on the screen?</p>	<p style="text-align: center;">Page 52</p> <p>1 not, you know. I wasn't aware of that. It was not</p> <p>2 part of my duties.</p> <p>3 Q. How did you know that someone was filling</p> <p>4 out time sheets for you?</p> <p>5 A. Well, I saw that they were filling out</p> <p>6 documents daily. I'm guessing that it's from</p> <p>7 verifying that you went to work that day.</p> <p>8 Q. So you're saying you saw them filling out</p> <p>9 time sheets and turning them in to verify that you</p> <p>10 had worked that day?</p> <p>11 MR. WELMAKER: Objection. Form.</p> <p>12 That's not what he said.</p> <p>13 A. Come again. Come with the question again.</p> <p>14 INTERPRETER: Interpreter will repeat.</p> <p>15 A. So that's not what I said. All I said was</p> <p>16 that they filled out paperwork, but I don't know what</p> <p>17 it was. I know that -- you know, that that's what</p> <p>18 they were doing. They had to do, like, the job</p> <p>19 briefing paperwork. I'm not a foreman. I don't know</p> <p>20 what they were doing.</p> <p>21 Q. (BY MR. SADYKHOV) Why did you mention time</p> <p>22 sheets?</p> <p>23 A. Well, I said possibly it could be. You</p> <p>24 know, I don't know. It possibly could be the job</p> <p>25 briefings, you know. I don't know.</p>

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14 (Pages 50 - 53)

1 Q. Okay. And you don't remember your exact  
2 start and end dates of employment, right?

3 A. So I started around the first or second  
4 week of May in 2018, and I came to finish working  
5 about March or April of 2019.

6 Q. Is there any reason to believe that  
7 May 15th is not your accurate start date? May 15th  
8 of 2018. I'm sorry.

9 A. Yes, it could be. I'm not quite sure, but  
10 I know that it was in May.

11 Q. And do you have any reason to believe that  
12 your last full workday wasn't March 15th of 2019?

13 A. I'm not sure if -- it was either the 15th  
14 of March or the 15th of April. I'm unsure.

15 Q. You don't know either way, correct?

16 A. I don't know. I don't remember. I don't  
17 remember.

18 Q. One second.

19 While you were working for Cobra, did  
20 you ever take any time off for any vacations?

21 A. So yes, there were some days that we took  
22 off that we went out, that they gave us. The  
23 disaster started, you know, slowing down. They were  
24 giving us certain Sundays off. Yes, Sundays.

25 Q. Only Sundays? You didn't take any other

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1 MR. WELMAKER: Yeah, go ahead and  
2 translate.

3 MR. SADYKHOV: My question was whether  
4 or not he's seeking overtime damages for those days  
5 when he didn't perform any work.

6 A. So I cannot really answer that or know. I  
7 can't say because maybe I did go to work and there's  
8 a mistake in the document that you're showing me. So  
9 I really can't say.

10 Q. (BY MR. SADYKHOV) All right.

11 MR. WELMAKER: Just to be clear, if  
12 there's no time written down there, I'm not seeking  
13 damages for that.

14 MR. SADYKHOV: I appreciate that.

15 Thank you. And I will try to use that stipulation to  
16 streamline.

17 Q. (BY MR. SADYKHOV) Let me just ask really  
18 quick: Do you remember taking around two, maybe two  
19 and a half weeks off maybe in October or November of  
20 2018?

21 A. No. You couldn't do that like that. This  
22 was an emergency. This was a storm. You couldn't  
23 take days off like that.

24 Q. Do you recall taking paid time off or PTO  
25 around the time that you stopped working for Cobra?

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1 time off?

2 A. So I don't remember really if I did take  
3 some days off that they gave us or if I went on  
4 vacation. I really don't -- don't recall if they,  
5 you know, gave us some days off, as well.

6 Q. Does July 2nd through July 10th of 2018  
7 sound familiar to you, taking that -- that time off?

8 A. In 2018?

9 Q. 2018.

10 A. I see what you have highlighted there. I  
11 just don't recall. I'm not sure if I already had  
12 something scheduled at the time.

13 Q. So you don't know one way or the other, but  
14 it's possible that you weren't working those days?

15 A. So, yes, I don't remember the reason. I'm  
16 not sure what happened during those days. Maybe I  
17 got sick. I don't know.

18 Q. And so, you're not claiming overtime for  
19 any days when you didn't perform any work at all,  
20 correct?

21 MR. WELMAKER: We'll stipulate we're  
22 not seeking damages for that time.

23 MR. SADYKHOV: Okay. Thank you.

24 Appreciate it, Doug. And, Diego, I'm not sure if you  
25 got the chance to translate.

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1 A. So the thing is I'm not sure because I  
2 don't recall taking any vacations or, you know,  
3 having them give us so many days off like that, you  
4 know. I remember once we were getting done with the  
5 reconstruction of the electric system them giving us  
6 a couple of days off. But that many days off, I  
7 don't recall.

8 Q. Were you offered paid time off as a  
9 benefit?

10 A. The thing is that, you know, this is an  
11 emergency. They don't use that, you know. Whenever,  
12 you know, there's a storm, you know, they cancel,  
13 like, vacations.

14 Q. My question was a little different.

15 Do you remember if they offered it as  
16 a benefit tied to your employment? Whether or not  
17 you took vacation or whether or not you could have --  
18 whether or not you did or could have, was it a  
19 benefit that was offered to you?

20 A. I don't remember.

21 Q. Okay. Thank you.

22 All right. We're going to go back to  
23 Exhibit 2 for now.

24 MR. SADYKHOV: You know what?  
25 Actually, I'm going to mark as Exhibit 4 these

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15 (Pages 54 - 57)

1 earnings statements, Anthony, just so you know.  
 2 (Exhibit 4 marked)  
 3 Q. (BY MR. SADYKHOV) So, Mr. Rodriguez,  
 4 earlier we looked at some check stubs that you had  
 5 produced through your attorney, and I'll just  
 6 stipulate to you that these are the ones that we  
 7 produced from the company.  
 8 Do you see that they are a little  
 9 different?  
 10 A. Well, yes. Now that I'm looking at it like  
 11 that open, yes, yes.  
 12 Q. Okay. All right. The first page is  
 13 Bates-labeled 7. So this appears to be a paycheck  
 14 from Cobra Acquisitions, LLC. This is for the pay  
 15 period of March 18th, 2019, through March 31st, 2019.  
 16 Do you see where I've read that?  
 17 A. Can you make it bigger, please, so that I  
 18 can see the dates that you're talking about?  
 19 Yes, that says March 5th --  
 20 Q. The pay date is April 5th. The period is  
 21 March 18th.  
 22 A. That's right. That's what that says.  
 23 Q. So this is -- this is -- you would agree  
 24 that this is a pay stub or a check stub similar to  
 25 the ones that we looked at earlier that you had

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1 MR. SADYKHOV: But thank you. I  
 2 appreciate that, Doug.  
 3 MR. WELMAKER: Sure.  
 4 Q. (BY MR. SADYKHOV) All right. All right.  
 5 So, Mr. Rodriguez, I'll stipulate that this is  
 6 another similar pay stub. It's just a different pay  
 7 period that's within the relevant time period.  
 8 Do you understand that this is just a  
 9 different version of what we just looked at?  
 10 A. Yes. It has a different date, yes.  
 11 Q. And so, it says "hourly" here. It also  
 12 says "regular" and your rate and "overtime," along  
 13 with a different rate of 70.95.  
 14 Do you see where I've read that?  
 15 A. Yes.  
 16 Q. And so, you had seen these paychecks  
 17 before, right, because you could access them through  
 18 the Paycom app; is that correct?  
 19 A. So the thing is I just wasn't sure -- I was  
 20 just making sure that the payment came in when it was  
 21 supposed to because I was under the understanding  
 22 that they were going to be paying me a thousand  
 23 dollars a day. How they detailed it on the pay stub,  
 24 I wasn't aware of that. All I knew is that I was  
 25 going to be paid a thousand dollars a day. How they

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1 produced through your attorney, right, but not  
 2 exactly?  
 3 A. Being the same date -- I can't recall if  
 4 that's the same date or not.  
 5 Q. So over here, do you see here where it says  
 6 "Pay basis: Hourly"?"  
 7 Do you see where I've read that?  
 8 A. Yes.  
 9 Q. Do you understand what that means?  
 10 A. Well, the basic payment per hour.  
 11 Q. Thank you.  
 12 A. I'm going to put my phone to the charger  
 13 right now. Give me a moment.  
 14 MR. SADYKHOV: Doug, we're getting  
 15 close.  
 16 MR. WELMAKER: And just, by the way,  
 17 Emil, the pay period that is being questioned, the  
 18 last day is July 23rd of 2018. The period in  
 19 question as far as my guys are concerned and their  
 20 overtime claims are concerned ends July 23rd, 2018.  
 21 Anything after that, I'm not seeking recovery for  
 22 because that's when the pay changed a little bit.  
 23 MR. SADYKHOV: Yeah. I'm playing  
 24 catch-up a little bit.  
 25 MR. WELMAKER: Yeah, I know you are.

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1 placed it there, I don't know.  
 2 Q. So you had access to these and you had seen  
 3 them before while you were still employed by Cobra,  
 4 correct?  
 5 A. Yes. I saw some, yes. I saw it at the  
 6 beginning to make sure what they were saying. And  
 7 then, you know, it was a thousand dollars a day, and  
 8 I would make sure that it was being deposited as  
 9 such.  
 10 MR. SADYKHOV: I'm going to object to  
 11 everything after "I saw some, yes," as nonresponsive.  
 12 You don't need to translate that, Diego.  
 13 Q. (BY MR. SADYKHOV) So you had seen these  
 14 check stubs before while you were working for Cobra,  
 15 correct? Yes or no?  
 16 A. Yes.  
 17 Q. But you just testified that you were under  
 18 the understanding that you were being paid a day  
 19 rate; is that right?  
 20 A. That I was going to be paid a thousand  
 21 dollars a day. That's what I was charging because  
 22 that's what they told me that they were going to be  
 23 paying.  
 24 Q. Okay. And so, if that's what they told you  
 25 but this check stub that you had access to said

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16 (Pages 58 - 61)

1 something else, did that bring up any questions or  
 2 make you curious? Did you ever wonder why this isn't  
 3 a day rate?

4 A. Well, no, you know. That's what they sent  
 5 in. You know, I wasn't curious because they told me  
 6 that they were paying me a thousand dollars a day.

7 Q. And as long as you were receiving the  
 8 equivalent of a thousand dollars a day, you're saying  
 9 you just didn't care about the details in the check;  
 10 is that correct?

11 A. Exactly.

12 Q. And so -- scratch that.

13 And so, it's possible, wouldn't you  
 14 agree, that Cobra was calculating your pay on an  
 15 hourly rate? They were just reaching the same  
 16 results that they knew you wanted?

17 A. From what I understood it to be, yes. You  
 18 know, I didn't understand how they were detailing it  
 19 on that. So that's what I understood.

20 Q. And did you understand that you were being  
 21 paid for 16 hours a day and that it was roughly or at  
 22 least close to the equivalent of the day rate that he  
 23 [sic] was seeking?

24 A. So I'll say it again, you know. I just  
 25 followed instructions. Whatever time they told me to

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1 Q. I understand that, but I'm asking you a  
 2 different question. I'll move on.

3 So would you change your testimony  
 4 earlier when you said that the check that you  
 5 produced didn't show any hours? Now that we're  
 6 looking at it and it refreshes your memory, do you  
 7 want to change that testimony?

8 A. Well, the thing is that that's not the  
 9 check there. The check is at the bottom where that  
 10 green one is. If you say "the check," I consider it  
 11 to be the green part. Now, the stub, you know, it  
 12 does have the details on it. If you tell me about  
 13 the check, then it's the one that's in color.

14 Q. All right. Yes or no, do you agree that  
 15 the pay stub shows an hourly rate of pay and the  
 16 amount of hours that you worked?

17 A. That's what it says there. There's some  
 18 hours there that are being detailed, yes.

19 Q. So -- got it. So your answer is yes, the  
 20 pay stubs do reflect hours worked and an hourly rate,  
 21 correct?

22 A. That's what the stub says, correct.

23 Q. Thank you.

24 Now we'll go down to Bates label 28 --  
 25 29. I'm sorry. We're almost done, Mr. Rodriguez. I

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1 leave work, I would leave.

2 Q. But did you understand that you were being  
 3 paid for 16 hours a day?

4 A. No, because I wasn't working per hour, you  
 5 know. They told me that I was going to be making a  
 6 thousand dollars a day.

7 Q. And to be fair, you were making close to  
 8 that amount; isn't that right?

9 A. Well, what they told me that they were  
 10 going to give me.

11 Q. Earlier when we first talked about the  
 12 checks that you had produced to your attorney, I  
 13 believe you testified that they did not show any sort  
 14 of hours worked.

15 Do you recall testifying to that?

16 A. No. So what I said is that I hadn't seen  
 17 that document, that chart that you showed me. But  
 18 the -- from the pay stubs that the attorney showed  
 19 me, he didn't show them to me. I had a picture of  
 20 those.

21 Q. Okay. But the ones we looked at before,  
 22 they do show your hours, don't they?

23 A. That's what it says there, you know. They  
 24 can detail it how they want, you know. What I was  
 25 being paid was a thousand dollars a day.

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1 promise.

2 All right. Do you see here where it  
 3 says -- I'm sorry. We're going back to 28. All  
 4 right. Do you see here where it says your hourly  
 5 rate times -- plus your overtime hourly rate times  
 6 the amount of hours and that's how they are  
 7 calculating this portion?

8 Do you understand that?

9 A. Well, yes, I see where it says regular,  
 10 overtime. And I don't see the other part because  
 11 it's a bit small. If you can make that bigger for  
 12 me, please. I do see it there, regular, overtime,  
 13 and day rate. I do see how they broke it down here.

14 Q. Thank you.

15 And so, this is a two-week pay period,  
 16 correct?

17 A. Yes. From the 28th through the 10th.

18 Q. And two weeks is 14 days, correct?

19 A. Yes. From the 28th -- yes.

20 Q. Thank you.

21 And so, if you were truly paid a day  
 22 rate of a thousand dollars per day for 14 days, your  
 23 total compensation should be \$14,000 flat, no cents,  
 24 correct?

25 A. Correct, yes.

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17 (Pages 62 - 65)

1 Q. And do you see that that's not the case  
2 here?  
3 A. Well, I see 14,000 there.  
4 Q. But --  
5 (Simultaneous cross-talk.)  
6 Q. (BY MR. SADYKHOV) 14,000.80, correct?  
7 A. With 80 cents.  
8 Q. So it's not the same number as 14,000 and  
9 zero cents, correct?  
10 A. That's correct. That's what it says there,  
11 14,000.80.  
12 Q. Thank you.  
13 Did you ever ask anyone about that  
14 discrepancy?  
15 A. So, you know, they are giving me a thousand  
16 and it's for 14 days and I see 14,000, you know, then  
17 it's right. You know, where those 80 cents came  
18 from -- you know, nobody asked where they came from,  
19 you know. It was 80 cents -- you know, I don't know.  
20 Nobody asked.  
21 Q. Better to just keep quiet and take the  
22 extra pay, right?  
23 A. You know, somebody -- you could say  
24 somebody made a mistake or something. You know, I  
25 saw 80 cents there but, you know, I don't know.

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1 off the record real quick? I think I'm done, but I  
2 have to check my outline.  
3 MR. WELMAKER: Sure.  
4 (Recess from 5:34 p.m. to 5:36 p.m.)  
5 Q. (BY MR. SADYKHOV) I just wanted to clarify  
6 one thing with you. And I know we went over it, so  
7 I'm very sorry to ask again. But did you -- you  
8 testified earlier that you never worked in the United  
9 States prior to around 2020; is that correct?  
10 A. No.  
11 MR. SADYKHOV: All right. No further  
12 questions.  
13 MR. WELMAKER: All right. As you can  
14 imagine, I have questions. So what I would like to  
15 do is see if I can't share the screen --  
16 MR. SADYKHOV: I thought you were  
17 kidding.  
18 MR. WELMAKER: No, no. I'm  
19 unfortunately serious.  
20 (Discussion off the record)  
21 EXAMINATION  
22 Q. (BY MR. WELMAKER) Mr. Rodriguez, I'm going  
23 to ask you a couple of questions, and what I want you  
24 to do is listen to my question and just give me the  
25 shortest answer that you can that is still truthful,

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1 Q. Do you know how much you're seeking in  
2 damages in this case, in total damages?  
3 A. I have an idea more or less, but no. The  
4 answer is no.  
5 Q. Do you know the -- can you give me an  
6 approximate number of how much you're seeking?  
7 A. No. I don't know. I have no idea.  
8 Q. Okay. Did you ever complain to anyone at  
9 Cobra about the way that you were paid?  
10 A. No.  
11 Q. Have you ever earned more at another job  
12 than you have at Cobra?  
13 A. No.  
14 Q. Did you ever complain about your hours that  
15 you were working?  
16 A. Like I said -- and I'll repeat it -- I was  
17 being paid a rate of a thousand dollars a day.  
18 MR. SADYKHOV: I'm going to object as  
19 nonresponsive. That is not my question.  
20 Q. (BY MR. SADYKHOV) My question was: Did  
21 you ever complain to anyone about the number of hours  
22 you were working?  
23 A. No.  
24 Q. Thank you.  
25 MR. SADYKHOV: All right. Can we go

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1 okay?  
2 So did you understand that,  
3 Mr. Rodriguez?  
4 A. Yes, I understand.  
5 Q. Okay. What I'm showing you is a document  
6 that you've already seen before. At the very bottom,  
7 it's Bates stamp 28.  
8 Do you see that?  
9 A. Is that the date that you're talking about?  
10 Q. It's a stamp at the bottom.  
11 A. Yes, yes. I do see it.  
12 Q. Okay. And this is one of your paychecks,  
13 correct?  
14 A. Yes.  
15 Q. Okay. And you were paid, as you testified,  
16 a thousand dollars a day, right?  
17 A. Yes, correct.  
18 Q. And in a typical pay period, you've got 14  
19 days, correct?  
20 A. Correct.  
21 Q. Okay. And what is your gross pay as  
22 reflected on this check?  
23 A. \$14,000.80.  
24 Q. Okay. What -- and if you need my help  
25 calculating this for you, I can help you.

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18 (Pages 66 - 69)

<p>1           What is a thousand dollars a day times      2 14 days?      3   A. \$14,000.      4   Q. Okay. So is part of your claim -- or is      5 the entirety of your claim that you were only paid      6 your day rate for all days worked and there's no      7 overtime payment to you in this check?      8   A. I am only being paid what was promised to      9 me, the thousand dollars a day.      10   Q. Okay. So a thousand dollars a day times 14      11 days is \$14,000, correct?      12   A. Yes, correct.      13   Q. Okay. And if you're averaging about 12      14 hours a day, then you're working more than 40 hours      15 each week, correct?      16   A. I'm sorry. I interrupted. I didn't catch      17 that.      18   Q. If you're working about 12 hours a day and      19 you're working seven days a week, then you're working      20 more than 40 hours each week, correct?      21   A. I believe so, correct.      22   Q. Well, you're working 84 hours a week if      23 you're working 12 hours a day, seven days a week?      24   A. Correct.      25   Q. 12 times 7 is 84. I'm just going to make   </p>	Page 70	<p>1   A. Correct, yes.      2   Q. And you're not being paid in addition to      3 that \$1,000 a day times 14 days except for 80 cents      4 on this check; is that correct?      5        MR. SADYKHOV: I'll object to form.      6   A. Correct.      7   Q. (BY MR. WELMAKER) Okay. What I would like      8 to do is bring your attention to another paycheck.      9 It is Bates stamp 25 at the bottom.      10      Do you see that, Mr. Rodriguez?      11   A. Yes, I can see it.      12   Q. And this is one of your paychecks, correct?      13   A. Yes.      14   Q. Okay. And can you tell me what the gross      15 amount is on this paycheck?      16   A. Can you make that bigger for me? I just      17 see the 12, but since you highlighted in blue --      18   Q. Okay.      19      (Simultaneous cross-talk.)      20   A. \$12,000.      21   Q. (BY MR. WELMAKER) Let's go to your time      22 sheets and check out what you worked on that      23 particular pay period. This pay period runs from      24 July 9th to July 22nd on the 12,000-dollar check.      25      Do you see that?   </p>	Page 72
<p>1 that representation to you.      2        INTERPRETER: I'm sorry, Counsel. I      3 didn't catch that.      4        MR. WELMAKER: 12 hours times seven      5 days is 84 hours. I'm going to make that      6 representation to him, and I want him to assume it's      7 true.      8        MR. SADYKHOV: Objection. Form.      9   Q. (BY MR. WELMAKER) Do you understand -- do      10 you understand that if you're working on average 12      11 hours a day, in a seven-day period you will be      12 working 84 hours?      13   A. Yes. If I work 12 hours, seven days, it's      14 84 hours, yes.      15   Q. Okay. So you're working more than 40 hours      16 in a week in weeks in which you worked 12 hours a      17 day, seven days a week, correct?      18   A. Correct.      19   Q. Okay. Are you being paid extra for working      20 more than 40 hours in a week, according to this      21 check?      22   A. No.      23   Q. And that's because you're getting paid a      24 thousand dollars a day times the number of days that      25 you worked, correct?   </p>	Page 71	<p>1   A. I do see it. Correct, yep.      2   Q. All right. Let's go to your time sheets      3 for that period. I'm looking at Bates Page 31 and      4 Bates 32.      5        For the period of July 9th, you only      6 worked one, two, three, four, five. You didn't work      7 Monday and Tuesday, according to this pay -- this      8 time record, correct?      9   A. Well, supposedly, right, they only have      10 there 12,000. That's only that I went 12 days, like      11 I didn't go two days.      12   Q. Correct. So in this pay period, you're      13 missing two days, whereas normally it would be 14      14 days, correct?      15   A. Correct.      16   Q. So if you're being paid a day rate of a      17 thousand dollars a day and you worked 12 days in the      18 pay period, what would you expect to be paid?      19   A. If I worked for 12 days at a thousand      20 dollars a day, then \$12,000.      21   Q. And that's what's reflected on this      22 paycheck, isn't it?      23   A. Correct.      24   Q. And I'm going back to Bates 28. This shows      25 that you worked -- you were paid 14,000.80.   </p>	Page 73

<p>1           Do you see that?</p> <p>2   A. Yes, I see it. For me to be able to tell,</p> <p>3 can you make that bigger? I didn't want you to ask</p> <p>4 me under oath and I'm answering something that I</p> <p>5 can't see what it is. I see it. 14,000.80.</p> <p>6   Q. Okay. Do you know how the extra 80 cents</p> <p>7 got on there?</p> <p>8           MR. SADYKHOV: Objection. Form.</p> <p>9   A. No. I don't know what -- what they are</p> <p>10 from.</p> <p>11   Q. (BY MR. WELMAKER) Do you understand the</p> <p>12 formula that the defendants used to reverse your day</p> <p>13 rate into an hourly rate?</p> <p>14           MR. SADYKHOV: Objection. Form.</p> <p>15   A. No.</p> <p>16   Q. (BY MR. WELMAKER) Did anyone explain to</p> <p>17 you that they were reverse engineering your day rate</p> <p>18 into hourly rates?</p> <p>19           MR. SADYKHOV: Objection. Form.</p> <p>20   A. Could you repeat that question for me,</p> <p>21 please?</p> <p>22   Q. (BY MR. WELMAKER) Did anyone explain to</p> <p>23 you that they were using a formula to reverse</p> <p>24 engineer your day rates into hourly rates?</p> <p>25           MR. SADYKHOV: Same objection as</p>	<p>1   Q. Okay. And this pay period is from May 28th</p> <p>2 to June 10th, correct?</p> <p>3   A. Yes. May 28th through June the 10th.</p> <p>4   Q. So let's go to your paychecks -- your time</p> <p>5 detail report. And May 28th, it's on Bates 30. It's</p> <p>6 this period right here. And so, for each of these</p> <p>7 days, your so-called time is 16 hours every single</p> <p>8 day.</p> <p>9           Do you see that?</p> <p>10   A. Yes.</p> <p>11   Q. Did you work 16 hours even every single</p> <p>12 day?</p> <p>13   A. No.</p> <p>14   Q. Is this an accurate representation of the</p> <p>15 hours that you worked?</p> <p>16   A. No.</p> <p>17   Q. Is it even possible for you to work exactly</p> <p>18 16 hours a day in a one-week period?</p> <p>19           MR. SADYKHOV: Objection. Form.</p> <p>20   A. No.</p> <p>21   Q. (BY MR. WELMAKER) Nobody was tracking your</p> <p>22 time, were they?</p> <p>23           MR. SADYKHOV: Objection. Form.</p> <p>24   A. I'm sorry. I didn't hear the question.</p> <p>25   Q. (BY MR. WELMAKER) Nobody was tracking your</p>
<p>Page 74</p> <p>1 earlier.</p> <p>2   A. No.</p> <p>3   Q. (BY MR. WELMAKER) So then you didn't</p> <p>4 understand that the formula the defendants used got</p> <p>5 close to what your day rate was but it couldn't quite</p> <p>6 get there? You didn't know that, did you?</p> <p>7           MR. SADYKHOV: Objection. Form.</p> <p>8   A. I couldn't have known that.</p> <p>9   Q. (BY MR. WELMAKER) All right. Let's -- you</p> <p>10 were asked earlier about your hourly rate. Do you</p> <p>11 see the -- on this paycheck -- and it's Bates 28.</p> <p>12           Can you tell me what your so-called</p> <p>13 hourly rate is here?</p> <p>14   A. The rate hourly?</p> <p>15   Q. Yes. The purported hourly rate, yes.</p> <p>16           MR. SADYKHOV: Objection. Form.</p> <p>17   A. So from what I see from the stub here and</p> <p>18 if I'm understanding correctly your question, it says</p> <p>19 47.30 and 70.95.</p> <p>20           MR. WELMAKER: So I just want to know</p> <p>21 what it purports to be as his hourly rate.</p> <p>22           MR. SADYKHOV: Objection. Form.</p> <p>23   Q. (BY MR. WELMAKER) I've helped you out by</p> <p>24 highlighting.</p> <p>25   A. Supposedly, 47.30 an hour.</p>	<p>Page 76</p> <p>1 time, were they?</p> <p>2           MR. SADYKHOV: Objection. Shauna, I</p> <p>3 objected. I don't know if you heard me.</p> <p>4   A. Supposedly, yes. But -- no, but yes.</p> <p>5   Q. (BY MR. WELMAKER) Let's just look at one</p> <p>6 day where you supposedly worked 16 hours. Your</p> <p>7 hourly rate is 47.30, correct?</p> <p>8   A. Uh-huh.</p> <p>9   Q. Is that a yes?</p> <p>10   A. Yes.</p> <p>11   Q. I'm going to -- do you have a calculator on</p> <p>12 your phone? Can you use it?</p> <p>13           MR. SADYKHOV: You can probably pull</p> <p>14 one up, Doug, if you want to, on your screen.</p> <p>15           MR. WELMAKER: Can anybody see this</p> <p>16 calculator?</p> <p>17   A. I have a calculator.</p> <p>18   Q. (BY MR. WELMAKER) All right. I'm going to</p> <p>19 just multiply 47.3, which is your supposed hourly</p> <p>20 rate, times 16 hours. The calculation results in the</p> <p>21 number 756.80. I want you to assume that that's a</p> <p>22 correct calculation, Mr. Rodriguez.</p> <p>23   A. 756.80 is what 16 hours -- like 47.30</p> <p>24 equals to me.</p> <p>25   Q. What was your promised day rate?</p>

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20 (Pages 74 - 77)

<p>1 A. A thousand dollars.</p> <p>2 Q. Is \$1,000 equal to \$756.80?</p> <p>3 A. That's not correct.</p> <p>4 Q. But according to your paycheck, you're paid 5 47.30 per hour. So how do you explain the 6 discrepancy?</p> <p>7 MR. SADYKHOV: Objection to form.</p> <p>8 A. That they are not paying me the amount for 9 the day that I'm supposed to be getting.</p> <p>10 MR. WELMAKER: I have no further 11 questions.</p> <p>12 MR. SADYKHOV: I will have a couple of 13 follow up. Sorry, everybody.</p> <p>14 FURTHER EXAMINATION</p> <p>15 Q. (BY MR. SADYKHOV) Mr. Rodriguez, just now 16 you agreed with your attorney -- while he was 17 questioning you, you agreed with him that -- or you 18 stated now in your testimony that they did not pay 19 you the correct hourly rate; is that correct? I'm 20 sorry. Scratch that.</p> <p>21 They didn't pay you the correct day 22 rate that they promised. That's what you just said, 23 correct?</p> <p>24 MR. WELMAKER: Objection. Form. You 25 can answer.</p>	<p>1 not -- it's not -- it doesn't match with what they 2 were supposed to pay me.</p> <p>3 Q. (BY MR. SADYKHOV) Correct. Because they 4 were calculating it based on hours, right? That is 5 the discrepancy?</p> <p>6 MR. WELMAKER: Objection. Form. You 7 can answer.</p> <p>8 A. Well, that's how they were calculating it, 9 as it said on the stub, by hour.</p> <p>10 Q. (BY MR. SADYKHOV) Right. So you would 11 agree with me that you're not being paid a day rate, 12 right?</p> <p>13 MR. WELMAKER: Objection. Form.</p> <p>14 A. Well, I'm not being paid what they 15 promised, the daily thousand dollars.</p> <p>16 Q. (BY MR. SADYKHOV) Right. So they are not 17 paying you the promised day rate, yes or no?</p> <p>18 A. According to what the pay stub says, they 19 are not paying it.</p> <p>20 MR. SADYKHOV: I'll pass the witness.</p> <p>21 MR. WELMAKER: No further questions. 22 We'll reserve until the time of trial.</p> <p>23 (Whereupon at 6:05 p.m. the deposition 24 was adjourned.)</p> <p>25 (Signature not requested.)</p>
<p>Page 78</p> <p>1 THE WITNESS: May I answer?</p> <p>2 MR. WELMAKER: Yes.</p> <p>3 A. Come again with the question, please.</p> <p>4 Q. (BY MR. SADYKHOV) So just now when your 5 attorney was questioning you, you had mentioned -- or 6 you had testified that -- that the discrepancy in the 7 pay he was showing you was because they were not 8 paying you the correct day rate.</p> <p>9 Do you recall saying that just now?</p> <p>10 MR. WELMAKER: Objection. Form.</p> <p>11 A. Yes, I do remember. Yes.</p> <p>12 Q. (BY MR. SADYKHOV) And that's because 16 13 hours times \$47.30 is \$756.80, right?</p> <p>14 A. Correct.</p> <p>15 Q. So wouldn't you agree with me that your pay 16 is being calculated based on hours multiplied by a 17 rate of pay?</p> <p>18 MR. WELMAKER: Objection. Form.</p> <p>19 INTERPRETER: This is the interpreter 20 speaking. Let me address him. So he didn't quite 21 hear the question. Could you repeat, please?</p> <p>22 MR. SADYKHOV: Shauna, I'm going to 23 need you to read it back again.</p> <p>24 (The record was read as requested.)</p> <p>25 A. Well, according to the calculation, it's</p>	<p>Page 80</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: Jose Rodriguez Aponte</p> <p>3 DATE OF DEPOSITION: May 3, 2024</p> <p>4 PAGE LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 Job No. HOU6679392</p>

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21 (Pages 78 - 81)

1 I, JOSE RODRIGUEZ APONTE, have read the foregoing  
 2 deposition and hereby affix my signature that same is  
 3 true and correct, except as noted above.  
 4  
 5 \_\_\_\_\_  
 6 JOSE RODRIGUEZ APONTE  
 7 THE STATE OF \_\_\_\_\_  
 8 COUNTY OF \_\_\_\_\_  
 9  
 10 Before me, \_\_\_\_\_ on this day  
 11 personally appeared JOSE RODRIGUEZ APONTE, known to  
 12 me or proved to me under oath of  
 13 \_\_\_\_\_ or through  
 14 \_\_\_\_\_ (description of identity card  
 15 or other document) to be the person whose name is  
 16 subscribed to the foregoing instrument and  
 17 acknowledged to me that he/she executed the same for  
 18 the purpose and consideration therein expressed.  
 19 Given under my hand and seal of office on this  
 20 day of \_\_\_\_\_, .  
 21  
 22 \_\_\_\_\_  
 23 NOTARY PUBLIC IN AND FOR  
 24 THE STATE OF \_\_\_\_\_  
 25 My Commission Expires: \_\_\_\_\_

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1 IN THE UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF TEXAS  
 2 SAN ANTONIO DIVISION  
 3 AARON MALDONADO, ET AL )  
 vs. ) CASE NO. 5:21-cv-85  
 4 MAMMOTH ENERGY SERVICES, )  
 INC., COBRA ACQUISITIONS, )  
 5 LLC, HIGHER POWER )  
 ELECTRICAL, LLC and 5 STAR)  
 6 ELECTRIC, LLC )  
 7  
 8 REPORTER'S CERTIFICATE  
 9 ORAL DEPOSITION OF JOSE RODRIGUEZ APONTE  
 10 May 3, 2024  
 11  
 12 I, Shauna Foreman, Certified Shorthand Reporter  
 13 in and for the State of Texas, hereby certify to the  
 14 following:  
 15 That the witness, Jose Rodriguez Aponte, was  
 16 duly sworn by the officer and that the transcript of  
 17 the oral deposition is a true record of the testimony  
 18 given by the witness;  
 19 That the original deposition was delivered  
 20 to Emil Sadykhov.  
 21 That a copy of this certificate was served on  
 22 all parties and/or the witness shown herein on  
 23 \_\_\_\_\_.  
 24 I further certify that pursuant to FRCP Rule  
 25 30(f)(1), the signature of the deponent:

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1 \_\_\_\_No Changes Made \_\_\_\_Amendment Sheet Attached  
 2  
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1 \_\_\_\_\_ was requested by the deponent or a party  
 2 before the completion of the deposition and that the  
 3 signature is to be before any notary public and returned  
 4 within 30 days (or \_\_\_\_\_ days, per agreement of counsel)  
 5 from date of receipt of the transcript. If returned, the  
 6 attached Changes and Signature page contains any changes  
 7 and the reasons therefor;  
 8 \_\_\_\_\_ was not requested by the deponent or a  
 9 party before the completion of the deposition;  
 10 I further certify that I am neither counsel for,  
 11 related to, nor employed by any parties or attorneys  
 12 in the action in which this testimony is taken, and  
 13 further that I am not financially or otherwise interested  
 14 in the outcome of this action.  
 15 Certified to by me on this the 6th day  
 16 of May, 2024.

17

18

19

20

21

22

23

24

25

*Shauna Foreman*  
 Shauna Foreman, CSR  
 Texas CSR 3786  
 Expiration: 10/31/2025  
 Veritext Legal Solutions  
 300 Throckmorton Street  
 Suite 1600  
 Fort Worth, Texas 76102  
 Tel. (817)336-3042  
 Firm No. 571

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22 (Pages 82 - 85)

1 COUNTY OF HARRIS )  
2 STATE OF TEXAS )  
3 I hereby certify that the witness was notified  
4 on \_\_\_\_\_ that the witness has 30 days (or  
5 \_\_\_\_\_ days, per agreement of counsel) after being  
6 notified by the officer that the transcript is available  
7 for review by the witness and if there are changes in  
8 the form or substance to be made, then the witness shall  
9 sign a statement reciting such changes and the reasons  
10 given by the witness for making them;  
11 That the witness' signature was/was not  
12 returned as of \_\_\_\_\_, 2024.  
13 Subscribed and sworn to on this the \_\_\_\_\_  
14 day of \_\_\_\_\_.

15

16

17

18 *Shauna Foreman*  
Shauna Foreman, CSR  
Texas CSR 3786  
Expiration: 10/31/2025  
Veritext Legal Solutions  
20 300 Throckmorton Street  
Suite 1600  
21 Fort Worth, Texas 76102  
Tel. (817)336-3042  
22 Firm No. 571  
23  
24  
25

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**[understand - work]**

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

AARON MALDONADO, et al )

1

Plaintiffs, )

VS. )

1

MAMMOTH ENERGY SERVICES, INC., ) CASE NO. 5:21-cv-85

COBRA ACQUISITIONS, LLC, HIGHER)

POWER ELECTRICAL, LLC, and )

5 STAR ELECTRIC, LLC,

1

Defendants.)

1

## ORAL DEPOSITION OF

MTGUEI, ROSARTO

MAY 2, 2024

(Taken Remotely)

ORAL DEPOSITION OF MIGUEL ROSARIO produced as a witness at the instance of the Defendants, was taken in the above-styled and numbered cause on the 2nd day of May, A.D. 2024, from 2:03 P.M. to 4:16 P.M., before Sharon Kiosse Poulos, CSR in and for the State of Texas, reported by shorthand machine, at the residence of the deponent, located at G-17 Calle Hermes Villas De Buena Vista, in the City of Bayamon, Puerto Rico, pursuant to the Federal Rules of Civil Procedure.

<p>1 APPEARANCES:      2 For the Plaintiffs:      3 DOUGLAS B. WELMAKER, ESQ.        WELMAKER LAW, PLLC      4 409 North Fredonia, Suite 118        Longview, Texas 75601      5 doug@welmakerlaw.com      6 For the Defendants:      7 EUGENE M. NETTLES, ESQ.        EMIL SADYKHOV, ESQ.      8 PORTER HEDGES LLP        1000 Main Street, 36th Floor      9 Houston, Texas 77002        (713) 226-6611      10 enettles@porterhedges.com      11 Also Present:      12 Diego Acosta, interpreter      13 Anthony Arteaga      14      15      16      17      18      19      20      21      22      23      24      25</p>	<p>1 DIEGO ACOSTA,      2 having been duly sworn, interpreted as follows:      3 MIGUEL ROSARIO,      4 having been duly sworn, testified through the      5 interpreter as follows:      6 EXAMINATION      7 BY MR. NETTLES:      8 Q. What is your date of birth?      9 A. January 6, 1966.      10 Q. So I think you're like 58 years old; is that      11 right?      12 A. Yes, sir.      13 Q. Okay. Miguel, you understand your deposition      14 is being taken today in a case that is pending in      15 Federal Court in San Antonio? You understand that?      16 A. Yes, sir.      17 Q. And the case has to do with your employment      18 with a company called 5 Star in Puerto Rico; is that      19 correct?      20 MR. WELMAKER: Objection; form.      21 Miguel, whenever I object, you can go ahead      22 and answer.      23 A. Okay. Yes. I work at 5 Star. But all my      24 chief are from Cobra.      25 Q. All your what? Checks?</p>
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2 (Pages 2 - 5)

<p>1 Miguel, do you recognize this as your 2 resume?</p> <p>3 A. Yes, sir.</p> <p>4 Q. All right. If you would go to the third page, 5 please.</p> <p>6 A. I can do that.</p> <p>7 Q. Yeah.</p> <p>8 Now, Miguel, did you write -- did you draft 9 this resume? Did you produce it yourself?</p> <p>10 A. For myself? No.</p> <p>11 Q. Who made your resume? Who made it for you?</p> <p>12 A. My family helped me because I don't write good 13 on a computer.</p> <p>14 Q. I gotcha. Okay.</p> <p>15 Look at the very bottom where it says 16 "references and letters of recommendation." The line 17 before that says, "Bilingual ability to communicate and 18 interact effectively, written and verbal, Spanish and 19 English."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Is that true?</p> <p>23 A. Some time.</p> <p>24 Q. Are you able to read English?</p> <p>25 A. Not to read too much English. I'm better to</p>	<p>1 A. No. I -- I don't be good at spell. 2 MR. NETTLES: Diego, can you help here? 3 THE INTERPRETER: Of course. 4 B-A-Y-A-M-O-N. 5 Q. (BY MR. NETTLES) Bayamon? 6 A. Yeah. 7 Q. That's where you live currently? 8 A. Yes. Right now, yes. 9 Q. Okay. Do you live there with anybody? Are you 10 married and have children or -- 11 A. Right now I'm divorced. 12 Q. Okay. So do you live -- do you live in a house 13 with anybody else? 14 A. No. 15 Q. Are you currently employed? Are you working 16 anywhere? 17 A. Yes. 18 Q. Who do you work for? 19 A. MasTec. 20 Q. MasTec? 21 A. Yes. 22 Q. Spell it, please. 23 A. I don't spell good. That's why I tell you. I 24 don't be good with spell. 25 MR. NETTLES: Let Diego figure this out and</p>
<p>Page 6</p> <p>1 speak English.</p> <p>2 Q. Okay. That's fine.</p> <p>3 Let's go to -- scroll up or go to the next 4 page, which is Page 2, and look -- go down a little bit 5 further, please. A little further.</p> <p>6 Let's do this. Let's start with education.</p> <p>7 Now this shows that you went to high school.</p> <p>8 Did you go to high school in Puerto Rico?</p> <p>9 A. Yes.</p> <p>10 Q. Where -- where are you from? Where were you 11 born?</p> <p>12 A. I live now in Puerto Rico. I live right now in 13 Puerto Rico.</p> <p>14 Q. You're not living in Puerto Rico now?</p> <p>15 A. No. I live now in Puerto Rico.</p> <p>16 Q. All right. Were you born in Puerto Rico?</p> <p>17 A. No -- yes. Yes. I was born in Puerto Rico.</p> <p>18 Q. All right. So what city were you born in in 19 Puerto Rico?</p> <p>20 A. Sorry. San Juan. San Juan.</p> <p>21 Q. Where do you live now, sir?</p> <p>22 A. In Puerto Rico, Bayamon.</p> <p>23 Q. What's the name of the city?</p> <p>24 A. Bayamon.</p> <p>25 Q. Will you spell that?</p>	<p>Page 8</p> <p>1 translate it, please.</p> <p>2 THE INTERPRETER: So that's MasTec.</p> <p>3 M-A-S-T-E-C-H.</p> <p>4 Q. (BY MR. NETTLES) Okay. So, Miguel, how long 5 have you worked for MasTec?</p> <p>6 A. Three years.</p> <p>7 Q. What do you do for them?</p> <p>8 A. I'm here to -- a GF.</p> <p>9 Q. I'm sorry?</p> <p>10 A. I'm here, general foreman.</p> <p>11 Q. General foreman.</p> <p>12 Is this an electrical company?</p> <p>13 A. Yes.</p> <p>14 Q. And what do you do? What's the -- strike that.</p> <p>15 Is MasTec one of the electrical suppliers 16 in Puerto Rico?</p> <p>17 A. I don't understand what you --</p> <p>18 Q. What does MasTec do? What kind of company is 19 it?</p> <p>20 A. Overhead.</p> <p>21 Q. Do they put lines up?</p> <p>22 A. Yes.</p> <p>23 Q. So it's an electrical company?</p> <p>24 A. Yes.</p> <p>25 Q. Is it just in Puerto Rico?</p>

<p>1 A. Yes.</p> <p>2 Q. And as the foreman, what do you do for the 3 company?</p> <p>4 A. You see it there in the -- in the -- in the 5 resume.</p> <p>6 Q. Okay. So the resume has the fact that you 7 worked for MasTec. In the resume it's spelled 8 M-A-S-T-E-C. And it says you supervise daily work, 9 daily work reports, blueprint -- blueprint reading, 10 materials requisition, handling equipment and heavy 11 vehicles, Category 9.</p> <p>12 Does that sound like a fair summation of 13 what you do?</p> <p>14 A. Yes.</p> <p>15 Q. All right. Now, let's go down on this Page 2 a 16 little bit. And it reflects training, certification and 17 licenses.</p> <p>18 Can you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Can you read that first line?</p> <p>21 A. It's very small. I can't see it.</p> <p>22 Q. I'll get him to make it a little bigger.</p> <p>23 Do you see that now?</p> <p>24 A. Yes.</p> <p>25 Q. All right. What does it say?</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. So let's sort of do it this way just to 3 speed things up, if possible here.</p> <p>4 After you got out of high school and after 5 you completed your training in terms of doing the 6 electrical work or the lineman electrical school, who 7 did you first go to work for?</p> <p>8 A. Tell me that in Spanish because I don't -- 9 don't really speak to it with that question in English.</p> <p>10 (Interpreter speaks with witness.)</p> <p>11 A. (Through interpreter). That's been so long 12 ago. Maybe electrical maybe. It's many years ago. I'd 13 have to look at my resume to be able to tell.</p> <p>14 Q. All right. Let's try to do this. I don't want 15 to belabor this. Go ahead.</p> <p>16 Anthony, go to the -- let's start at the 17 first page. Actually let's do this. Let's go to the 18 second page.</p> <p>19 And if you look on the second page, it says 20 you were a lineman, trouble man, electric power 21 authority, Puerto Rico, October of '92 to May of '06; 22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. That reflects what you did at that time?</p> <p>25 A. Yes.</p>
<p>Page 10</p> <p>1 A. American Safety Health, OSHA, CPR. Right?</p> <p>2 Q. Yes.</p> <p>3 A. Yes.</p> <p>4 Q. So do you have an OSHA certification?</p> <p>5 A. Yes.</p> <p>6 Q. CPR and AED, you have those -- that training?</p> <p>7 A. Yeah.</p> <p>8 Q. And the other --</p> <p>9 If you'll shrink it just a little bit, 10 Anthony.</p> <p>11 The other categories reflects that you've 12 been trained on heavy vehicles, bucket truck operator, 13 digger derrick. Is that true?</p> <p>14 A. Yes.</p> <p>15 Q. And you have a driver's license, Category 9, 16 operate heavy vehicles, pickup trucks, panel trucks, 17 flatbed trucks.</p> <p>18 All that is correct?</p> <p>19 A. Yes.</p> <p>20 Q. And US government motor vehicle operator ID for 21 forklift, fork electric, pallet truck, cherry picker, 22 all that's correct?</p> <p>23 A. This is canceled. Right now, no.</p> <p>24 Q. Okay. Training on conservation and maintenance 25 of power lines.</p>	<p>Page 12</p> <p>1 Q. And then you were a foreman for MasTec from May 2 of '06 to October of '06; correct?</p> <p>3 A. Yes.</p> <p>4 Q. Scroll on up. And then in October you were at 5 Terry's Electric from October of '06 to May of '07; 6 correct?</p> <p>7 A. That you see there?</p> <p>8 Q. Yes. Correct?</p> <p>9 A. Yes.</p> <p>10 Q. All right. Let's go to the next page, first 11 page.</p> <p>12 All right. On the first page it reflects 13 that at one time you were, in January of '07 through 14 February of '13, basically six years, that you were a 15 foreman for NC Contractors and Rental.</p> <p>16 And that's Bayamon, Puerto Rico; correct?</p> <p>17 A. Yes.</p> <p>18 Q. So if we flip back to the Page 2 and go back to 19 the top, some of the work that you did like for World 20 Leaders, Terry's Electric, was in Florida; correct?</p> <p>21 A. Yes.</p> <p>22 Q. So you have worked in the United States and 23 Puerto Rico your whole life?</p> <p>24 A. Yes.</p> <p>25 Q. Let's go back to Page 1. From February '13 to</p>

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4 (Pages 10 - 13)

<p>1 August of '15, you -- when you worked for Willbros T&amp;D, 2 that was in Fort Worth, Texas?</p> <p>3 A. Yes.</p> <p>4 Q. What did you do -- what did you do for them?</p> <p>5 A. Foreman.</p> <p>6 Q. All right. But everything that you've done on 7 all these jobs relates to repairing and determining what 8 causes of trouble in electrical lines; is that fair?</p> <p>9 A. Yes.</p> <p>10 Q. In other words, your entire life has been 11 devoted to being a foreman doing electrical work; 12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And at the very top of the page it says 15 August of '15 to present in Bayamon, Puerto Rico, that 16 you've been self-employed as a general contractor 17 foreman; correct? Did you hear the question?</p> <p>18 A. Yeah. I see -- I try to read what happened in 19 the resume. That's what I'm doing now.</p> <p>20 Q. Okay. We can make it a little bigger if that 21 will help you.</p> <p>22 A. Yes.</p> <p>23 Q. So does that -- is the resume accurate where it 24 depicts what you're currently doing now? Is that 25 correct?</p>	Page 14	<p>1 A. I have to give you a copy or you have a copy?</p> <p>2 I don't know what you're trying to say.</p> <p>3 Q. That's what I'm asking.</p> <p>4 Have you -- you provided some documents to 5 your lawyer who provided those to us?</p> <p>6 A. I don't remember.</p> <p>7 Q. All right. Well, I don't see a copy of your 8 driver's license. Would you mind giving us a copy of 9 that?</p> <p>10 A. Now?</p> <p>11 Q. No. No. No.</p> <p>12 Well, it looks like we do have it. You 13 don't need to do it.</p> <p>14 A. Okay.</p> <p>15 Q. Thank you. It's one of the documents that's 16 been provided.</p> <p>17 Now, this has an address in Florida in 18 Orlando on Flower Fields Lane. Did you -- did you live 19 there at one time?</p> <p>20 A. Yes, sir.</p> <p>21 Q. All right. And how long ago was that? Do you 22 remember?</p> <p>23 A. I don't remember.</p> <p>24 Q. You keep this driver's license up? In other 25 words, you get it renewed when it expires?</p>	Page 16
<p>1 A. This resume is old. It's not the -- that I 2 have right now because they say something to August 15 3 to the present, is in that time. It's not from -- 4 from -- it's not right now with, I do and this is not -- 5 that you try to put that time. This is in that time 6 from August '15 to the present in that time, in that 7 year. It's not from this year. That's what I see here.</p> <p>8 Q. Yeah. I understand.</p> <p>9 So right now you're working for MasTec; 10 right?</p> <p>11 A. That's correct. This is not the real resume 12 update. That resume is not update.</p> <p>13 Q. I gotcha.</p> <p>14 But at the time -- at the time it was 15 accurate when -- when you made it; right?</p> <p>16 A. Yeah. That's maybe -- it's about six years.</p> <p>17 Q. So let me ask this, Mr. Rosario, are you a US 18 citizen?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And you have a driver's license from the US?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And what state is it from?</p> <p>23 A. Florida.</p> <p>24 Q. All right. Well, at some point have you given 25 us a copy of that driver's license?</p>	Page 15	<p>1 A. Yes, sir.</p> <p>2 Q. This one expired in '21, it looks like.</p> <p>3 Do you have a renewed license?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. Now, it looks like, or it appears that 6 you went to work for the company early April of 2018. 7 And I say the company. Let's talk about 5 Star at least 8 temporarily.</p> <p>9 Do you remember that -- filling out an 10 employment application and a lot of different forms for 11 5 Star?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And when you filled this out -- and I'm going 14 to show you now -- let's go to, I guess it's going to be 15 Tab 6.</p> <p>16 MR. WELMAKER: Did you want that ID marked 17 as an exhibit?</p> <p>18 MR. NETTLES: Yeah. I want to mark the --</p> <p>19 I'm sorry, Anthony. It's going to be 20 Tab 6.</p> <p>21 THE REPORTER: So you marked the driver's 22 license, correct, as 2?</p> <p>23 MR. NETTLES: No. It hasn't been marked 24 yet.</p> <p>25 MR. WELMAKER: What's the Bates on --</p>	Page 17

5 (Pages 14 - 17)

<p>1 MR. NETTLES: The employment application is 2 996.</p> <p>3 Let's mark his resume. We were going to 4 mark it as 1; correct?</p> <p>5 MR. SADYKHOV: Correct. Yeah.</p> <p>6 MR. NETTLES: So on the employment 7 application let's mark it as 2. The employment 8 application starts on 996.</p> <p>9 MR. WELMAKER: Got it.</p> <p>10 MR. NETTLES: That's not it.</p> <p>11 Anthony, it was tab -- that's it right 12 there.</p> <p>13 (Exhibit No. 2 marked.)</p> <p>14 Q. (BY MR. NETTLES) All right. Miguel, can you 15 see this well enough?</p> <p>16 Make it a little bigger, please, Anthony.</p> <p>17 Can you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Is that your handwriting?</p> <p>20 A. I think so.</p> <p>21 Q. You recognize your own handwriting?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So when you filled this application out, 24 it has a date at the top, March 29th of '18. At that 25 time you were still living in Orlando; is that correct?</p>	<p>1 A. Now, 5 Star, I don't think so.</p> <p>2 Q. Okay. So when you were filling out the -- 3 well, strike that.</p> <p>4 How did you find out that there was a job 5 opening with 5 Star in Puerto Rico?</p> <p>6 A. In the state all the linemens have 7 communication, and somebody -- I don't remember -- they 8 tell me the -- the contact to the people --</p> <p>9 (Interpreter speaks with witness.)</p> <p>10 THE INTERPRETER: Recruitment people?</p> <p>11 THE WITNESS: Yeah.</p> <p>12 A. And I -- I call them, that man. I don't 13 remember the name. But that's the way all the time, all 14 the people working the state.</p> <p>15 Q. (BY MR. NETTLES) So do you remember going to 16 an orientation in Puerto Rico?</p> <p>17 A. Yes.</p> <p>18 Q. Do you remember what city it was in?</p> <p>19 A. I think so. It's in Humacao.</p> <p>20 Q. McCowan?</p> <p>21 A. Yeah.</p> <p>22 Q. And spell that for me or let's make sure we've 23 got the correct spelling.</p> <p>24 THE INTERPRETER: Humacao. H-U-M-A-C-A-O.</p> <p>25 MR. NETTLES: Shari, you might want to</p>
<p>Page 18</p> <p>1 A. Yes.</p> <p>2 Q. How long did you live there?</p> <p>3 A. I don't remember.</p> <p>4 Q. Five years, six years?</p> <p>5 A. No, not too long. I don't remember the -- how 6 many -- how long I'll be there.</p> <p>7 Q. Okay. Did you fill out quite a bit of 8 paperwork? Do you recall that?</p> <p>9 A. (Through interpreter). That was a long time 10 ago. Honestly I don't recall.</p> <p>11 Q. Okay. That's fine.</p> <p>12 Go to Page 999 at the bottom. Is that your 13 signature, Miguel?</p> <p>14 A. (Through interpreter). That does look like my 15 signature.</p> <p>16 Q. Okay. Go to the top.</p> <p>17 Now, Mark Tarango and Joe Rendon and Hector 18 Suarez, did any of those folks go to work with you at 19 5 Star?</p> <p>20 A. I don't -- no. They're just people that I know 21 this guy.</p> <p>22 Q. Okay.</p> <p>23 A. I don't remember. But maybe in another 24 company. I don't know very well.</p> <p>25 Q. Okay.</p>	<p>Page 20</p> <p>1 correct that for the first deposition.</p> <p>2 Q. (BY MR. NETTLES) All right. So in Humacao, 3 were you at a hotel? Do you remember?</p> <p>4 A. No. I don't remember the hotel.</p> <p>5 Q. Okay. Did anybody help you fill out the 6 paperwork?</p> <p>7 A. We don't understand too many English. And the 8 people from orientation are people from Cobra, and 9 they -- they be with us to -- we do the -- the paperwork 10 because we don't attempt good -- all the -- they say all 11 the English or whatever it's in the paper.</p> <p>12 Q. Did they help you fill it out or help you 13 understand what you were signing?</p> <p>14 A. I don't remember good, but I know that there 15 are people with us. I don't remember the -- what part 16 or something like that, they help me.</p> <p>17 Q. But they did have people there helping you?</p> <p>18 A. They help everybody.</p> <p>19 Q. Okay. Do you remember signing an offer of 20 employment letter?</p> <p>21 A. I don't remember.</p> <p>22 Q. Let's go to Tab 7.</p> <p>23 A. It's a long time.</p> <p>24 (Exhibit No. 3 marked.)</p> <p>25 Q. (BY MR. NETTLES) All right. That's your name</p>

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6 (Pages 18 - 21)

<p>1 at the top; correct?</p> <p>2 A. Yeah. That's my name.</p> <p>3 Q. All right. Scroll down, please. All right.</p> <p>4 And so it says that starting hourly rate,</p> <p>5 \$35. Do you see that?</p> <p>6 A. Of course, I see it.</p> <p>7 Q. It says, Puerto Rico storm rate 1250 per day</p> <p>8 broken down hourly. Over 16 hours daily, hourly 59.12.</p> <p>9 Did I read that correct?</p> <p>10 A. That's what it say.</p> <p>11 Q. Do you remember that, that's what they told you</p> <p>12 when you were there?</p> <p>13 A. I don't remember that.</p> <p>14 Q. What do you remember?</p> <p>15 A. I remember that we have the rates from -- we</p> <p>16 work in the day.</p> <p>17 Q. You had the what? I'm sorry.</p> <p>18 A. That we have the rates. It's the rate work.</p> <p>19 The rates that we work in the day, and that is the</p> <p>20 number, one two -- one two a hundred two fifty. That is</p> <p>21 the number. I remember that.</p> <p>22 Q. Okay. So that's how much you were supposed to</p> <p>23 get every day?</p> <p>24 A. That's what they say the rate is going to be</p> <p>25 that for me.</p>	Page 22	<p>1 Q. And it was signed, if you can move it over, I</p> <p>2 think it's signed 4-7-18.</p> <p>3 Maybe make it little smaller.</p> <p>4 A. We sign a lot of documents. We want only to</p> <p>5 work, and they tell us the rates. That's -- that's the</p> <p>6 truth.</p> <p>7 Q. That's the main thing you remember; right?</p> <p>8 A. Yeah.</p> <p>9 Q. Okay. Now, did you have a home in Puerto Rico</p> <p>10 back in April of '18?</p> <p>11 A. I have what?</p> <p>12 Q. Did you live in Puerto Rico? Did you have a</p> <p>13 house there back in 2018?</p> <p>14 A. (Through interpreter). Yes. I had a home in</p> <p>15 Puerto Rico.</p> <p>16 Q. Where was your home located in Puerto Rico?</p> <p>17 A. Back then in Bayamon.</p> <p>18 Q. Okay.</p> <p>19 A. Or it's rent. I don't live there.</p> <p>20 Q. You just rented it?</p> <p>21 A. Yeah. They have a family there. I don't live</p> <p>22 there. I'm staying in the state.</p> <p>23 Q. But you have a family in Bayamon?</p> <p>24 A. I have a lot of family in Bayamon.</p> <p>25 Q. When you say "a lot" --</p>	Page 24
<p>1 Q. You're saying the rate, R-A-T-E? Is that what</p> <p>2 you're saying?</p> <p>3 A. (Through interpreter). The rate, the daily</p> <p>4 rate.</p> <p>5 Q. Did they ever talk to you about, in addition to</p> <p>6 the daily rate, that you were going to be paid hourly</p> <p>7 broken down over 16 hours a day?</p> <p>8 A. No.</p> <p>9 Q. Sixteen hours daily?</p> <p>10 A. No.</p> <p>11 Q. You don't remember that?</p> <p>12 A. No. They don't say that. They say it's going</p> <p>13 to be the rate to -- they're going to pay up to me one</p> <p>14 hundred two fifty. I think so. From -- from the day.</p> <p>15 Q. Have you ever made \$1,250 a day before? In</p> <p>16 other words, have you ever made that much money in a day</p> <p>17 before this job in Puerto Rico?</p> <p>18 A. No.</p> <p>19 Q. Was that a lot of money to you at that time?</p> <p>20 A. You see it. Yes.</p> <p>21 Q. Go down to the bottom of this page, please. Do</p> <p>22 you see your name there?</p> <p>23 A. Yes.</p> <p>24 Q. That's your signature, Miguel?</p> <p>25 A. Yes.</p>	Page 23	<p>1 A. Probably -- a lot of family. I'm from</p> <p>2 Puerto Rico.</p> <p>3 Q. But when you are talking about family, you're</p> <p>4 talking about your children or your ex-wives or what?</p> <p>5 A. Brothers, everybody. I live in Puerto Rico.</p> <p>6 I'm married in Puerto Rico. I have my mother, everybody</p> <p>7 live here.</p> <p>8 Q. When you say "here," do you mean Puerto Rico or</p> <p>9 Florida?</p> <p>10 A. Puerto Rico. I live in Florida in that time,</p> <p>11 and I have family too in Florida.</p> <p>12 Q. So you have a family in Florida as well?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Okay. So, Miguel, when you went to work in</p> <p>15 Puerto Rico, did you have a crew that you were</p> <p>16 supervising as the foreman?</p> <p>17 A. Yeah. When -- when I start in -- in that</p> <p>18 storm, they put me in charge of a crew, yes.</p> <p>19 Q. And as part of that crew, was Jorge Rivera, was</p> <p>20 he one of the guys on your crew?</p> <p>21 A. Jorge Rivera. I think so.</p> <p>22 Q. What about Juan Santiago?</p> <p>23 A. I don't remember -- no. Juan Santiago. No.</p> <p>24 Q. But Rivera was?</p> <p>25 A. Yes.</p>	Page 25

7 (Pages 22 - 25)

1 Q. What about Jose Rodriguez? Did you know Jose  
2 Rodriguez?  
3 A. Yes.  
4 Q. Was -- was he on your crew?  
5 A. No. No.  
6 Q. Okay. How many people were on your crew? Do  
7 you remember?  
8 A. The crew is five guys with -- it's four guys  
9 and me.  
10 Q. Okay. And do you recall -- have you done storm  
11 work before?  
12 A. Yes.  
13 Q. On many occasions?  
14 A. Of course.  
15 Q. So when you were down there in Puerto Rico, the  
16 whole island was pretty much destroyed and without  
17 electricity; correct?  
18 A. You say it, yes.  
19 Q. And your job was to help go out and repair  
20 these lines; correct?  
21 A. Yes.  
22 Q. Did they send you to different locations every  
23 day?  
24 A. Yes.  
25 Q. Was there any predominant area that you worked

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1 A. Towns.  
2 Q. You would go from one town to the next?  
3 A. Depend, yes. We were on the island.  
4 Q. Right.  
5 Miguel, I didn't ask you this in the  
6 beginning. But have you ever given a deposition before  
7 like this?  
8 A. Never in my life.  
9 Q. Have you ever been involved in a lawsuit before  
10 like this?  
11 A. Never in my life.  
12 Q. Have you ever been in any criminal trouble  
13 where you have been arrested or prosecuted?  
14 A. No.  
15 Q. Have you ever had to sue anybody for anything?  
16 A. (Through interpreter). Never.  
17 Q. Okay.  
18 Shari, what was the last question and  
19 answer?  
20 THE REPORTER: "You would go from one town  
21 to the next?"  
22 "Answer: Depend, yes. We were on the  
23 island."  
24 Q. (BY MR. NETTLES) Okay. Miguel, when you were  
25 on the island and working, do you remember whether or

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1 in?  
2 A. (Through interpreter). Yes. We have a chart  
3 and different points on the island.  
4 Q. When you say different points, I think you're  
5 referring to different cities or locations you would go  
6 to?  
7 A. Yes. Depend what we -- they -- they want to we  
8 do.  
9 Q. So how many hours a day did you work?  
10 A. When they come in the morning, you see the sun,  
11 and when they go, probably -- I don't know.  
12 Different -- maybe thirteen hours or something like  
13 that. Sometimes they go a little more. Yes. Twelve.  
14 I don't know. When the suns go and the suns -- so if  
15 the suns coming, the suns go. That's the perfect -- to  
16 say.  
17 Q. Where did you stay in the evening in  
18 Puerto Rico when you were down there working?  
19 A. They give us a hotel, a room.  
20 Q. Did you go back to the same hotel every night?  
21 A. Yes.  
22 Q. Did you ever change hotels?  
23 A. Yes. Sometimes.  
24 Q. And would that be because you would be moving  
25 cities?

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1 not there was any disciplinary action taken against you  
2 where they laid you off for three days with no pay?  
3 A. I don't remember.  
4 Q. So do you remember your termination date being  
5 like March 15th of 2019?  
6 A. I don't remember.  
7 Q. Do you remember why you stopped working for  
8 5 Star?  
9 A. They don't have more work to us. I think so.  
10 I don't remember. I think so. Yeah.  
11 Q. Okay. Did they ever offer you to work back in  
12 the States or anything else?  
13 A. No.  
14 Q. Okay.  
15 A. All my chief all the time is the people from  
16 Cobra. You see it in the pictures, hat, all the  
17 supervisor, they have people from --  
18 Q. Okay. How did you learn about the fact that  
19 there was a lawsuit that was going to be filed in this  
20 case?  
21 A. Tell me that in Spanish, please.  
22 (Interpreter speaks with witness.)  
23 A. One of the guys from the State, they tell us  
24 to -- to -- what they're going to do it. I don't  
25 remember the name. One of the guys.

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8 (Pages 26 - 29)

1 Q. Okay. And they tell you who to call or gave  
2 you an email address or what?  
3 A. Yeah. He -- they tell me -- they give it to  
4 us --  
5 (Interpreter speaks with witness.)  
6 A. (Through interpreter). They gave us the phone  
7 number who we could call.  
8 Q. Okay. And did you call somebody? Did you call  
9 Mr. Welmaker or somebody?  
10 A. (Through interpreter). Well, yes. Once they  
11 told us that, we wanted to know.  
12 Q. Okay.  
13 A. I don't know that time is -- his lawyer but I  
14 know that we call somebody about this case. That's --  
15 that's what I know.  
16 Q. Did you ever understand what was the nature of  
17 the case, what was the reason that there was a case?  
18 A. Yes.  
19 Q. What was it?  
20 A. They don't pay us overtime.  
21 Q. All right. Did you ever, back when you were  
22 with the company and you were getting paychecks, did you  
23 ever look at the paychecks, in other words, where you  
24 could see your check, what you were getting paid?  
25 A. We have a problem with the application. That

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1 net pay; correct?  
2 A. (Through interpreter). Like I said and I'll  
3 say it again, I'm not really good with numbers. At the  
4 time I didn't really understand what it was, but I do  
5 know that there were deductions.  
6 Q. All right.  
7 Well, do you -- do you remember -- you  
8 worked for the company for slightly over a year;  
9 correct?  
10 A. Yes.  
11 (Through interpreter). With Cobra?  
12 Q. Well, I'm talking about 5 Star.  
13 Let's mark the next exhibit on the earnings  
14 statement.  
15 All right. Do you see that, Miguel?  
16 A. Yes.  
17 Q. Go ahead. I'm sorry.  
18 A. Yes.  
19 You asked me what more information did I  
20 have for my statements? Because I don't see that in  
21 the -- the -- in the Paycom we have a lot of problem  
22 with that app.  
23 Q. All right. Let's mark this as the next  
24 exhibit. What number is that going to be?  
25 (Exhibit No. 4 marked.)

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1 time I don't remember the name is -- yeah. We have a  
2 big problem, yeah, with the application, and the way  
3 they sees my account.  
4 Q. So were you ever able to get through where you  
5 could see how much you were getting paid a week?  
6 A. (Through interpreter). With time, yes.  
7 Q. All right. So at some point in time before you  
8 left, you could look at your paycheck and look at the  
9 pay stub to see how much you were getting paid; correct?  
10 A. (Through interpreter). Well, yes, I saw their  
11 detailed summary there.  
12 Q. Right.  
13 And you know that you would get a gross pay  
14 and a net pay. Do you understand?  
15 A. Tell me that in Spanish.  
16 (Interpreter speaks with witness.)  
17 A. (Through interpreter). Well, I'm not good with  
18 numbers or the checks, but that's what you could see  
19 there.  
20 Q. You could see -- you know they took out  
21 deductions for taxes; correct?  
22 A. (Through interpreter). That's correct. We all  
23 get deducted something.  
24 Q. So you could see at the top the amount you were  
25 being paid in a day less deductions and come up with the

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1 MR. WELMAKER: Gene, can you tell me what  
2 the starting Bates number is?  
3 MR. NETTLES: 1497.  
4 Q. (BY MR. NETTLES) Let's go to the very first --  
5 excuse me -- the last page 1523.  
6 All right. Miguel, can you see this  
7 particular document well enough, or does he need to make  
8 it bigger?  
9 A. It's good.  
10 Q. Can you see it well enough? I'm sorry.  
11 MR. SADYKHOV: I think he's frozen. His  
12 connection looks frozen.  
13 MR. NETTLES: Yeah.  
14 Well, maybe this is a good time to take a  
15 break, Doug.  
16 MR. WELMAKER: Tell him to call back.  
17 (Recess taken from 2:55 until 3:02.)  
18 Q. (BY MR. NETTLES) In terms of where we were, we  
19 were looking at Exhibit 4 and on Page 1523.  
20 Ready to get back on the record?  
21 Mr. Rosario, you understand we are back on the record?  
22 A. Yes.  
23 Q. All right. I'm going to go back to -- this is  
24 a check, one of the checks and a pay stub, at the top;  
25 correct?

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9 (Pages 30 - 33)

<p>1 A. What?</p> <p>2 Q. Have you seen this document or a document like</p> <p>3 this before, check and the pay stub?</p> <p>4 A. No, sir. You have more information -- no. You</p> <p>5 have more information than I have.</p> <p>6 Q. You never saw this or anything like this?</p> <p>7 A. No. Because I have a problem, I tell you about</p> <p>8 my app, and -- and -- and they don't -- I don't see it.</p> <p>9 Q. Well, do you remember that you said in your</p> <p>10 testimony that you were able to get into it later? You</p> <p>11 were able to get into the app and look at your check and</p> <p>12 the pay stubs?</p> <p>13 A. Yes. Yes. But they don't have that part down</p> <p>14 there where they say no -- it's only that I look and I</p> <p>15 see it. I don't see all that.</p> <p>16 Q. So did you -- on the pay stubs did you see the</p> <p>17 gross amount you were being paid and the net amount with</p> <p>18 the deductions?</p> <p>19 A. Yeah.</p> <p>20 Q. So you've seen that before?</p> <p>21 A. This one, I don't remember.</p> <p>22 Q. I'm not -- no. I'm not asking you if you have</p> <p>23 seen this particular check before. I'm asking you when</p> <p>24 you were able to get into Paycom, could you see</p> <p>25 something similar to this where you had -- had a pay</p>	<p>1 Q. And most of that was Puerto Rico withholding.</p> <p>2 You understood that?</p> <p>3 A. (Through interpreter). I understand, so</p> <p>4 Puerto Rico has its deductions.</p> <p>5 Q. All right. So you understood that on all of</p> <p>6 your checks, all of these deductions were coming out of</p> <p>7 your gross pay; correct?</p> <p>8 A. (Through interpreter). That's what it says</p> <p>9 there, that it's coming out of the payment.</p> <p>10 Q. So you knew that at the time when you were in</p> <p>11 Puerto Rico. You -- at some point you could look at</p> <p>12 this information; correct?</p> <p>13 A. (Through interpreter). Yes. At one moment I</p> <p>14 was able to see, yes.</p> <p>15 Q. All right. And also if you could see all that,</p> <p>16 you could go up and see that you had --</p> <p>17 Scroll up Anthony, please.</p> <p>18 -- you could see that there was an amount,</p> <p>19 a rate being applied for regular time and overtime on</p> <p>20 this particular pay stub; correct?</p> <p>21 A. (Through interpreter). I see that, so that's</p> <p>22 what it says there.</p> <p>23 Q. And that's something that you saw before when</p> <p>24 you were in Puerto Rico and looking at this information;</p> <p>25 correct?</p>
<p style="text-align: right;">Page 34</p> <p>1 stub?</p> <p>2 A. Yes. Oh, yes. Now I see.</p> <p>3 Q. All right. And so when you were able to look</p> <p>4 at it, you could look and see where it had withholding</p> <p>5 taxes and it had Medicare, Social Security, all the</p> <p>6 deductions? That's what I'm saying. You could look at</p> <p>7 all the deductions; correct?</p> <p>8 A. I see some of the deduction here, yes. Some</p> <p>9 numbers, yes.</p> <p>10 Q. And you could see -- you understand what gross</p> <p>11 pay is and net pay?</p> <p>12 A. Yes.</p> <p>13 MR. NETTLES: Diego, let's ask him in</p> <p>14 Spanish. I want to make sure this is clear.</p> <p>15 (Interpreter speaks with witness.)</p> <p>16 A. (Through interpreter). Of course.</p> <p>17 MR. NETTLES: All right. Let's make that a</p> <p>18 little bigger, Anthony, if you can.</p> <p>19 Q. (BY MR. NETTLES) So you can look and see the</p> <p>20 gross pay on this check was 8824.76. Do you see that?</p> <p>21 A. (Through interpreter). I see it.</p> <p>22 Q. Go down to the net pay. Go a little further</p> <p>23 down, please. The net pay was 5508.11. That's quite a</p> <p>24 bit of difference; correct? A lot of difference.</p> <p>25 A. (Through interpreter). Yes.</p>	<p style="text-align: right;">Page 35</p> <p>1 A. (Through interpreter). Yes. I saw -- yes. I</p> <p>2 saw that they had the deductions, but I understood that</p> <p>3 I was under a day rate. The way that they detail it,</p> <p>4 well, I don't know how they did it.</p> <p>5 Q. Did you ever tell anybody that you didn't</p> <p>6 understand how you were being paid and you didn't</p> <p>7 understand the regular and the overtime rates on your</p> <p>8 pay stubs?</p> <p>9 A. (Through interpreter). Well, yes, we had our</p> <p>10 doubts, but we just -- you know, we saw the money came</p> <p>11 into our bank, and, you know, we just weren't aware of</p> <p>12 how they were doing the deductions.</p> <p>13 Q. Well, when you say you had your doubts, what</p> <p>14 did you have doubts about?</p> <p>15 A. (Through interpreter). Well, the percentages</p> <p>16 that they use to be able to deduct that amount of money.</p> <p>17 Q. So if there was anything you were complaining</p> <p>18 about, it wasn't about your overtime rate. It was about</p> <p>19 the deductions?</p> <p>20 A. (Through interpreter). So we knew -- we didn't</p> <p>21 know that we weren't being paid those extra hours. When</p> <p>22 we found out, that's the only moment when we realized</p> <p>23 that there was something wrong there. But me exactly</p> <p>24 being able to tell you what the problem was, I -- I</p> <p>25 couldn't tell you that.</p>

10 (Pages 34 - 37)

1 Q. What do you understand the problem is today?  
 2 A. (Through interpreter). That they didn't pay us  
 3 for some overtime that we had to be paid for.  
 4 Q. Did you ever talk to anybody when you were  
 5 working for the company about the fact that you were not  
 6 being paid overtime or being paid overtime correctly?  
 7 A. (Through interpreter). Me personally, no. But  
 8 it was rumored amongst the guys that there was an issue  
 9 with the overtime.  
 10 Q. When did that rumor go around?  
 11 A. (Through interpreter). It was a long time ago.  
 12 I couldn't give you an exact date.  
 13 Q. Was it after you left the job?  
 14 A. (Through interpreter). I don't remember if it  
 15 was before or after.  
 16 Q. Well, it's true that during the time you worked  
 17 there, you never complained to anybody about not being  
 18 paid overtime correctly; right?  
 19 A. (Through interpreter). Exactly, because I  
 20 didn't know.  
 21 Q. All right. On your -- on this document you  
 22 have in front of you it reflects overtime rates and  
 23 money; correct?  
 24 A. (Through interpreter). That's what I see  
 25 there.

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1 A. (Through interpreter). I -- I don't recall  
 2 using a calculator to, you know, come about a number  
 3 like that. Not that I recall, no.  
 4 MR. NETTLES: Go to the next -- go to the  
 5 page before, Anthony, 1522, and go to the very top.  
 6 Q. (BY MR. NETTLES) All right. This is a -- if  
 7 you go look at the very top. Scroll down a little bit  
 8 more. This is for a -- scroll down a little more. All  
 9 the way to the top of the document, please.  
 10 This is for a pay date of June 29, '18. Do  
 11 you see that?  
 12 A. (Through interpreter). I do see it.  
 13 Q. And the period, a start time, was June 11, '18;  
 14 correct?  
 15 A. (Through the interpreter). I can -- I see  
 16 that.  
 17 Q. All right. So you got paid -- you got paid  
 18 every two weeks; correct?  
 19 A. (Through interpreter). Yes. I don't remember  
 20 very well, but I -- I believe, yes.  
 21 Q. All right. Go down, scroll down a little bit  
 22 more to where there is the gross pay.  
 23 All right. If you look at the gross pay,  
 24 it is for \$17,499.52. Do you see that?  
 25 A. (Through interpreter). Yes. I do see it.

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1 Q. So back when you were working and you were able  
 2 to access Paycom, you could look at what the check stubs  
 3 said about being paid regular rates and overtime rates;  
 4 right?  
 5 MR. WELMAKER: Objection; form. We've  
 6 already been over this.  
 7 Q. (BY MR. NETTLES) You can answer it, Miguel.  
 8 A. (Through interpreter). Come again on the  
 9 question, please.  
 10 Q. All right. Back when you were with the company  
 11 and you could access these records, you could see that  
 12 there was an amount for overtime being applied to your  
 13 paycheck; correct?  
 14 A. (Through interpreter). Well, yes, we saw the  
 15 numbers there, but I didn't understand fully what those  
 16 numbers we were looking at were.  
 17 Q. Well, you understood enough to know when it  
 18 said gross, that those are in dollars, and that's how  
 19 many dollars that were -- you were going to be paid;  
 20 correct?  
 21 A. (Through interpreter). Well, if you're talking  
 22 about the numbers that we're looking at, of course, I'm  
 23 able to tell there's a difference.  
 24 Q. Did you ever go look at any of your checks and  
 25 multiply 1250 a day times, let's say, 14 days or --

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1 Q. All right. If you were to multiply \$1,250  
 2 times 14, you would get \$17,500.  
 3 A. (Through interpreter). If -- if you say so. I  
 4 don't have a calculator to do it, so that's what you're  
 5 saying.  
 6 Q. Let's just assume that I'm telling you that  
 7 that's correct. Okay.  
 8 All right. Well, here's the calculator.  
 9 If you multiply 1,250 times 14, do you see at the very  
 10 top, equals \$17,500.  
 11 Do you see that?  
 12 A. (Through interpreter). I do see it.  
 13 Q. All right. Was there ever any occasion where  
 14 you were checking what you were being paid just to find  
 15 out if they were paying you for all the days and the  
 16 time you worked?  
 17 A. (Through interpreter). So my answer will be  
 18 clear here, I worked every day for a year, every day one  
 19 after the other.  
 20 I know that they had deductions. I just  
 21 wasn't aware of how much it was. I saw that the money  
 22 was coming in the bank, and like I've said before and  
 23 I've said it many times, I'm not good with, you know,  
 24 calculations and numbers.  
 25 Q. Did you ever ask anybody to assist you with the

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11 (Pages 38 - 41)

<p>1 calculations and the numbers?</p> <p>2 A. (Through interpreter). No. Not that I recall,</p> <p>3 no.</p> <p>4 Q. You never talked to anybody at the company and</p> <p>5 said, Hey, look, I'm -- I'm not really good with the</p> <p>6 math. I need to understand these deductions.</p> <p>7 A. (Through interpreter). I don't recall doing</p> <p>8 that.</p> <p>9 Q. And you never talked to anybody at the company</p> <p>10 about not understanding the overtime pay that you</p> <p>11 were -- that's reflected on this document? In other</p> <p>12 words, the rate and the time period, the hours?</p> <p>13 A. (Through interpreter). I don't recall. Long</p> <p>14 time ago.</p> <p>15 Q. But you certainly had the opportunity to do</p> <p>16 that if you wanted to; correct?</p> <p>17 A. (Through interpreter). So like I've said it</p> <p>18 before, you know, I'm -- I don't really agree with the</p> <p>19 way you said it. You know, I -- my job, I had a lot of</p> <p>20 work. My job was to do service and, you know, I don't</p> <p>21 remember if I did at the time or not have a chance to do</p> <p>22 so.</p> <p>23 Q. Did you have a supervisor when you were there?</p> <p>24 A. (Through interpreter). Yes.</p> <p>25 Q. Who was your supervisor?</p>	Page 42	<p>1 A. (No response).</p> <p>2 Q. Miguel?</p> <p>3 A. (Through interpreter). I do see it.</p> <p>4 Q. Do you see where it says 5 Star?</p> <p>5 A. (Through interpreter). That's correct.</p> <p>6 Q. There are all your paychecks, every single</p> <p>7 paycheck you got the whole time you were with the</p> <p>8 company are contained in this exhibit, and every one of</p> <p>9 these checks says 5 Star.</p> <p>10 A. (Through interpreter). Well, okay. You have</p> <p>11 more information than I do. I don't have all that</p> <p>12 information.</p> <p>13 Q. Well, you can look at it. It's certainly going</p> <p>14 to be available for you to review and refresh your</p> <p>15 memory. But you don't have a memory of getting a check</p> <p>16 from Cobra; do you? You don't remember that; do you?</p> <p>17 A. (Through interpreter). I don't remember.</p> <p>18 Q. And your job offer came from 5 Star; correct?</p> <p>19 A. (Through interpreter). Yes, that is correct.</p> <p>20 MR. NETTLES: Let's go to Page Tab 3,</p> <p>21 Anthony, the complaint.</p> <p>22 Let's mark this as Exhibit 5.</p> <p>23 (Exhibit No. 5 marked.)</p> <p>24 Q. (BY MR. NETTLES) Mr. Rosario, can you see this?</p> <p>25 A. (Through interpreter). Yes, I do see it.</p>	Page 44
<p>1 A. (Through interpreter). I don't remember the</p> <p>2 name of the supervisor, but it was somebody from the US.</p> <p>3 I do know that he was a supervisor from Cobra due to</p> <p>4 the -- due to the clothes that he was wearing.</p> <p>5 Q. Did he have a shirt on that said Cobra?</p> <p>6 A. (Through interpreter). All the supervisors</p> <p>7 did.</p> <p>8 Q. They had clothing that said Cobra?</p> <p>9 A. (Through interpreter). They had Cobra's logo.</p> <p>10 Q. On their shirt or their hat or what?</p> <p>11 A. (Through interpreter). Shirt and hat. I do</p> <p>12 remember that they presented themselves as Cobra's</p> <p>13 supervisors.</p> <p>14 THE INTERPRETER: Interpreter would like to</p> <p>15 correct. Supervisors from Cobra.</p> <p>16 Q. (BY MR. NETTLES) You never got a paycheck from</p> <p>17 anybody but 5 Star; correct?</p> <p>18 A. (Through interpreter). I don't remember. I</p> <p>19 don't remember exactly. I remember that there was an</p> <p>20 issue with the app, so I'm not sure if they did payment</p> <p>21 through another company or not. At the moment I don't</p> <p>22 remember.</p> <p>23 Q. Well, go back to Exhibit No. 4. And these are</p> <p>24 all your paychecks. Let's go to -- go to Page 1498.</p> <p>25 Do you see that paycheck?</p>	Page 43	<p>1 Q. All right. Let's find your name in there</p> <p>2 somewhere.</p> <p>3 All right. Do you see your name that's</p> <p>4 just been highlighted?</p> <p>5 A. (Through interpreter). Yes.</p> <p>6 Q. All right. And go up at the very top of the</p> <p>7 page. Do you see where the complaint is dated at the</p> <p>8 top on February 2nd of 2021?</p> <p>9 A. (Through interpreter). Yes.</p> <p>10 Q. So do you remember prior to the time this</p> <p>11 lawsuit was filed, that you discovered there was some</p> <p>12 kind of a case? Do you remember how long before that</p> <p>13 that you discovered that there was a case going on?</p> <p>14 THE INTERPRETER: Counsel, are you -- could</p> <p>15 you repeat that question for me? I'm not sure if I</p> <p>16 caught that.</p> <p>17 Q. (BY MR. NETTLES) Mr. Rosario, the question</p> <p>18 that I'm trying to ask is that prior to the time this</p> <p>19 lawsuit was filed in February of 2021, when did you</p> <p>20 learn about the fact that there was some kind of a case</p> <p>21 going on involving overtime?</p> <p>22 A. (Through interpreter). I don't really remember</p> <p>23 a date. I do remember, you know, talking with my</p> <p>24 coworkers, and at one point something was sent to my</p> <p>25 email.</p>	Page 45

12 (Pages 42 - 45)

1 Q. Was it something sent to your email from some  
2 of your coworkers, or who sent it?  
3 A. (Through interpreter). Honestly I don't  
4 remember. I really don't remember honestly. You know,  
5 they just -- you know, I didn't know, so they -- I just  
6 remember them telling me that something was going on  
7 because of some overtime that hadn't been paid to us.  
8 Q. Did you save any of those?  
9 A. (Through interpreter). They must be around.  
10 I'm not sure if they're there or not.  
11 Q. Can you look and see if you can find them?  
12 A. (Through interpreter). Well, right now at this  
13 moment I don't really know how to mess with that.  
14 Q. Not at this moment, but sometime after the  
15 deposition is over, would you check and see if you can  
16 locate any of these emails?  
17 A. (Through interpreter). I must have them.  
18 Q. All right. Would you -- if you can find them  
19 and locate them, would you send them to your lawyer?  
20 You said yes or good?  
21 A. (Through interpreter). I'm just looking at  
22 this document here. I want to make sure, you know,  
23 what -- what I'm going to answer.  
24 Q. Does he want to look at more of this document  
25 or --

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1 the companies, Mammoth, Cobra Electric, that they were  
2 in charge of the storm here in Puerto Rico.  
3 Q. So what evidence did you see that Mammoth was  
4 in charge of anything in Puerto Rico?  
5 A. (Through interpreter). I -- I do remember. I  
6 don't know where. I do remember seeing something about  
7 Mammoth and Cobra and Power Electric. I -- I just --  
8 you know, I do remember them mentioning it. If they  
9 mentioned it, it's because they were working here.  
10 Q. You didn't have anything do with Mammoth Energy  
11 Services, Inc.; did you?  
12 A. (Through interpreter). I don't recall. If I  
13 did have something to do with it, I don't -- I don't  
14 remember.  
15 Q. Well, what about Higher Power Electrical, LLC?  
16 You had nothing to do with Higher Power; did you?  
17 A. (Through interpreter). I had heard about them,  
18 that they were also working around here.  
19 Q. I mean, you had nothing to do with Higher  
20 Power; did you?  
21 A. (Through interpreter). Well, you see I  
22 remember, from what I recall, you know, there were many  
23 supervisors from Cobra. And, again, I was working to  
24 restore electrical service, and who was supervisor of  
25 who, well, I don't know. You know, I remember Cobra

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1 A. (Through interpreter). So, yeah, you know, I  
2 just don't really remember, you know. This was in 2021.  
3 We're in 2024. And I just sometimes don't have a good  
4 memory for this kind of thing. I know what's going on.  
5 I know what we're working to do. I know that it's  
6 regarding some time that they didn't pay us. But, you  
7 know, like reading it and looking for it now....  
8 Q. Yeah.  
9 I want to make it -- make sure it's clear  
10 what I'm asking him.  
11 I'm asking him if he could try and locate  
12 any of the emails he may have gotten before this case  
13 was filed.  
14 A. (Through interpreter). I -- I could verify,  
15 yes.  
16 Q. Okay. And just let your lawyer know. Thank  
17 you. All right.  
18 A. (Through interpreter). Honestly I don't know  
19 if I have it, but I'll check.  
20 Q. Okay. Thank you.  
21 All right. Let's look at the very top of  
22 this page where you see -- when it says defendants below  
23 the V, Mammoth Energy Services, Inc.  
24 Are you familiar with that company?  
25 A. (Through interpreter). Well, yes, those were

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1 being our supervisor and 5 Star, you know. That's what  
2 I could say about that. I don't know, you know, where  
3 you're -- where you're going with this, but that's what  
4 I can say.  
5 Q. Yeah. What I'm asking you is, you had no  
6 connection with Higher Power Electrical when you were on  
7 the island; right?  
8 A. (Through interpreter). I don't -- I don't  
9 remember.  
10 MR. NETTLES: Okay. Doug, why don't you  
11 let me get off here for five minutes and see I've got  
12 anything else. So let's go off the record, please.  
13 (Recess taken from 3:41 until 3:48.)  
14 Q. (BY MR. NETTLES) Let's go to Tab 8. Mark this  
15 as the next exhibit. It will be Exhibit 6.  
16 All right. Let's get back on the record.  
17 Miguel, you understand we're back on the  
18 record?  
19 A. Yes, sir.  
20 MR. NETTLES: The court reporter is ready?  
21 THE REPORTER: Yes.  
22 (Exhibit No. 6 marked.)  
23 Q. (BY MR. NETTLES) If you look at the very --  
24 let's go up to the very top of this exhibit.  
25 Have you seen anything like this before

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13 (Pages 46 - 49)

<p>1 from Paycom?</p> <p>2 A. (Through interpreter). No.</p> <p>3 Q. All right. So if you go down and look, this</p> <p>4 exhibit reflects that your first date, your start date,</p> <p>5 was 4-7 of '18.</p> <p>6 Does that sound right to you?</p> <p>7 A. (Through interpreter). I don't recall exactly</p> <p>8 the date.</p> <p>9 Q. Okay. And if you go down to the -- let's go to</p> <p>10 the very last page, which is Page 13 of 13 and Bates</p> <p>11 labeled 1540.</p> <p>12 Do you see that it reflects, it looks like,</p> <p>13 the date is 3-18, March 18, on a Monday?</p> <p>14 A. (Through interpreter). Yes.</p> <p>15 Q. Did you ever get any paid time off payment?</p> <p>16 A. (Through interpreter). Let me try to think.</p> <p>17 Time off. I don't recall.</p> <p>18 Q. Do you recall taking any time off at all when</p> <p>19 you were there?</p> <p>20 A. (Through interpreter). I don't remember.</p> <p>21 Q. You don't remember ever taking a week off here</p> <p>22 and there and going home and taking a break from all</p> <p>23 this?</p> <p>24 A. (Through interpreter). No, not that I'm aware</p> <p>25 of, I didn't take any. No.</p>	Page 50	<p>1 Hey, Shari, if -- I was going to say,</p> <p>2 Shari, do we have a dial-in number? Because he can stay</p> <p>3 on video and dial through on his phone. I've done that</p> <p>4 before.</p> <p>5 MR. NETTLES: Yeah. We've got one.</p> <p>6 Why don't we have him get off and come back</p> <p>7 in. I think that would be the easiest.</p> <p>8 THE REPORTER: Yes. Off the record. Yes.</p> <p>9 (Off the record 3:57 until 3:58.)</p> <p>10 Q. (BY MR. NETTLES) Mr. Rosario, I think the last</p> <p>11 thing that I was asking the witness was --</p> <p>12 Are we back on the record, Shari?</p> <p>13 THE REPORTER: Yes, we are.</p> <p>14 Q. (BY MR. NETTLES) So, Mr. Rosario, do you</p> <p>15 understand we're back?</p> <p>16 A. (Through interpreter). Yes. I actually have a</p> <p>17 question.</p> <p>18 Q. Okay.</p> <p>19 A. (Through interpreter). On the top part of this</p> <p>20 document I see that it says Mammoth.</p> <p>21 (In English) Yeah. Before -- you took it</p> <p>22 from some document from Mammoth. That's what I want to</p> <p>23 know. I see it. Okay.</p> <p>24 Q. You've never seen it before, though; right?</p> <p>25 A. (In English). Do you want some answers about</p>	Page 52
<p>1 Q. All right. Let's go to Page 2, and it's Bates</p> <p>2 labeled 1529. Scroll down to June the 4th through the</p> <p>3 11th.</p> <p>4 So this reflects that you did not work from</p> <p>5 June the 4th of 2018 until the 11th. You took a week</p> <p>6 off.</p> <p>7 A. (Through interpreter). I -- I don't remember</p> <p>8 taking a week off. I don't remember. That's what it</p> <p>9 says there, but I don't remember.</p> <p>10 Q. Go to the next page, Page 3, and look -- it</p> <p>11 looks like starting at June -- Monday, June 23 -- excuse</p> <p>12 me -- July 23 to July 30 down at the bottom.</p> <p>13 So this reflects you took another week off</p> <p>14 in July of 2018. Any memory of that?</p> <p>15 A. (No response.)</p> <p>16 MR. NETTLES: Diego?</p> <p>17 MR. SADYKHOV: I think he lost audio.</p> <p>18 Yeah. He can't hear us.</p> <p>19 MR. NETTLES: Trying to fix it, Diego?</p> <p>20 MR. SADYKHOV: He says now he's still</p> <p>21 unable to hear. Very choppy. He's -- he's messaging in</p> <p>22 group chat to all of us.</p> <p>23 MR. NETTLES: You're talking about the</p> <p>24 interpreter now; right?</p> <p>25 MR. SADYKHOV: Yes, that's correct.</p>	Page 51	<p>1 this document in these days and --</p> <p>2 MR. WELMAKER: No. You can ask -- you can</p> <p>3 ask me those questions, Miguel.</p> <p>4 THE WITNESS: Okay. Don't worry.</p> <p>5 Q. (BY MR. NETTLES) So where we are was, you</p> <p>6 don't remember taking the week off on -- reflected on --</p> <p>7 from July 23rd to the 30th; correct?</p> <p>8 A. (Through interpreter). No.</p> <p>9 Q. And to be clear, this is the first time you've</p> <p>10 ever seen this document?</p> <p>11 A. (Through interpreter). Yes.</p> <p>12 MR. NETTLES: Okay. We're going to go to</p> <p>13 the next exhibit, Anthony, under Tab 12. It's going to</p> <p>14 be what -- one of the documents he produced as Bates</p> <p>15 labeled Rosario 5.</p> <p>16 This will be marked as Exhibit 7.</p> <p>17 (Exhibit No. 7 marked.)</p> <p>18 Q. (BY MR. NETTLES) Miguel, what is this</p> <p>19 document?</p> <p>20 A. (Through interpreter). That's what they call a</p> <p>21 timesheet.</p> <p>22 Q. Yes.</p> <p>23 Were you filling out timesheets when you</p> <p>24 were there?</p> <p>25 A. (Through interpreter). Yes.</p>	Page 53

1 Q. If you look down at the very bottom of the  
2 page, is that your signature?  
3 A. (Through interpreter). Yes. It looks like my  
4 signature.  
5 Q. Do you have any other timesheets, other than  
6 this?  
7 A. (Through interpreter). No, not that I recall.  
8 I don't recall if I had another one or not.  
9 Q. Is it fair to say that you were filling out  
10 timesheets the whole time you were there?  
11 A. (Through interpreter). Yes.  
12 Q. All right. Did they tell you to put sixteen  
13 hours down or that's how many hours you were working or  
14 how did that go?  
15 A. (Through interpreter). They told us to write  
16 it like that.  
17 Q. Okay.  
18 A. (Through interpreter). We were paid for a day  
19 of work so that's how we had to fill it out.  
20 Q. Well, it says on your timesheet you were paid  
21 hourly and overtime. Do you remember that?  
22 A. (Through interpreter). Well, no, I would be  
23 paid a daily rate, so my daily rate was 1,250.  
24 Q. I'm sorry. Will you say that again, please.  
25 What?

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1 Paycom app, so I wasn't really paying attention to that.  
2 (Exhibit No. 8 marked.)  
3 Q. (BY MR. NETTLES) Let's go to the next exhibit,  
4 which is going to be Exhibit 8, and it's the next  
5 document 13, Tab 13.  
6 Now, this is a document that you produced;  
7 correct?  
8 A. (Through interpreter). Yes.  
9 Q. You gave this to your lawyer to give to me;  
10 correct?  
11 A. (In English). Yes.  
12 Q. Is this something you filled out in your  
13 handwriting?  
14 MR. SADYKHOV: I think he's frozen again.  
15 A. (In English). You can open it a little more,  
16 because you only show me little things. You can open  
17 more, so I can check out everything.  
18 MR. NETTLES: All right. Go ahead and  
19 scroll all the way down, Anthony, if you would. And go  
20 to the next Page 2. Show his signature down there at  
21 the bottom.  
22 Q. (BY MR. NETTLES) One of those signatures is  
23 yours; correct?  
24 A. (Through interpreter). Yes.  
25 Q. All right. So my question was: Did you fill

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1 THE INTERPRETER: Interpreter will repeat.  
2 Would you like him to say it again? I'm sorry.  
3 MR. NETTLES: Yes. Please say it again,  
4 whatever the answer was.  
5 A. (Through interpreter). You could -- can you  
6 repeat the question so I could also refresh my memory?  
7 I'm --  
8 Q. (BY MR. NETTLES) All right. So on your pay  
9 stubs it reflects that you were -- that you were being  
10 paid an hourly rate and overtime.  
11 Do you recall that?  
12 A. (Through interpreter). But, no, we got paid on  
13 a daily rate. It's not like we got paid on overtime or  
14 like you're saying. We got paid a daily rate.  
15 Q. You know, I've asked you several times whether  
16 you went to look and see if you were being paid  
17 correctly.  
18 Did you ever go do that?  
19 MR. WELMAKER: Objection; asked and  
20 answered.  
21 A. (Through interpreter). Well, like I said, you  
22 know, I would check and see if they were paying, but I  
23 didn't have much time, you know. I would see that the  
24 bank account, it would come in, and I would just work,  
25 you know. And, again, I was having problems with the

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1 out any of this?  
2 A. (Through interpreter). Not necessarily would  
3 have had to have been me. Anybody could have filled it  
4 out. This is the job briefing on this stuff, you know,  
5 from what -- it's giving -- it's the job detail sheet  
6 from what we're going to be doing.  
7 Q. Okay.  
8 A. (Through interpreter). So -- but we all had to  
9 read it and make sure we knew what we were reading  
10 because it's the work that we had to do. That's why  
11 everybody had to sign it.  
12 (Exhibit No. 9 marked.)  
13 Q. (BY MR. NETTLES) Okay. Go to the next  
14 exhibit, which is going to be under Tab 19, and ask the  
15 witness if he can translate that.  
16 A. (Through interpreter). Who? Me?  
17 Q. Yes.  
18 A. (Through interpreter) Well, all that that says  
19 is that there wasn't nothing going on, and there wasn't  
20 any more personnel to work on there en Ceiba.  
21 MR. NETTLES: Will you translate it for me  
22 please, sir.  
23 THE INTERPRETER: Of course.  
24 "This is Cobra en Ceiba. The auction is up  
25 until September the 9th, and they have all ready started

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15 (Pages 54 - 57)

1 to work without it being adjudicated."

2 Q. (BY MR. NETTLES) So I'm going to go back to  
3 the question to the witness.

4 Where did you get this document?

5 A. (Through interpreter). So that's a message  
6 right there. That's a text message. As you can tell,  
7 that's a message that somebody sent. And then the  
8 picture was just evidence of, you know, that we were --  
9 Cobra was already working. And then we were working.  
10 You know, somebody just took a picture of that. But  
11 that's just a comment that somebody had done.

12 Q. Okay.

13 A. (Through interpreter). And then that was  
14 resent to me.

15 MR. WELMAKER: Gene, do you know how much  
16 longer you have?

17 MR. NETTLES: Very short.

18 Are you going to have any questions?

19 MR. WELMAKER: No, I don't think so.

20 MR. NETTLES: I'm going to pass the  
21 witness.

22 MR. WELMAKER: I don't have any. I'll  
23 reserve all questions until trial.

24 MR. NETTLES: Okay. That's all I have,  
25 Mr. Rosario. Thank you.

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	CHANGES AND/OR CORRECTIONS
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21	
22	MIGUEL ROSARIO
23	STATE OF TEXAS )
24	)
25	COUNTY OF )
	Subscribed and sworn to before me by the said
	witness, MIGUEL ROSARIO, on this the _____ day of
	Page 60

1 THE INTERPRETER: You need his address or  
2 where he is at right now?

3 THE REPORTER: Where he is right now.

4 THE INTERPRETER: So G17 Calle, that's  
5 C-A-L-L-E space Hermes, H-E-R-M-E-S, space Villas,  
6 V-I-L-L-A-S, space de, D-E, space Buena, B-U-E-N-A,  
7 space Vista, V-I-S-T-A, Bayamon, Puerto Rico 00956.

8 THE REPORTER: Thank you.

9 Mr. Welmaker, do you want the same  
10 agreement? Signature of the deponent; is that correct?

11 MR. WELMAKER: Yes.

12 (The deposition concluded at 4:16 PM.)

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1	_____ A.D. 2024.
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4	Notary Public in County, For the State of Texas. My Commission expires _____.
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16 (Pages 58 - 61)

1 STATE OF TEXAS )  
2 )  
2 COUNTY OF TARRANT )  
3 I, Sharon Kiosse Poulos, a Certified Shorthand  
Reporter in and for Tarrant County, Texas, do hereby  
4 certify that the facts stated by me in the caption to  
the within and foregoing deposition are true; that the  
5 deposition was taken before me pursuant to the agreement  
of the parties; that the within named witness was duly  
6 sworn to testify the truth; that the questions asked and  
the answers given were taken by me and subsequently  
7 transcribed by me and reduced to typewriting by me or  
under my supervision, and that the within and foregoing  
8 typewritten pages constitute and contain a full, true,  
complete and correct transcript of all proceedings had.  
9

10 I further certify that I am neither attorney  
for, related to nor regularly employed by any of the  
parties hereto, and, further, that I am not a relative  
11 or employee of any attorney or counsel employed by the  
parties hereto, and that I am not in any way financially  
12 interested in the outcome of said proceedings.

TO CERTIFY WHICH, witness my hand and seal at  
13 Fort Worth, Tarrant County, Texas, this 20th day of  
May 2024.

14  
15   
16

Cert. No. 1315 (11/30/2025)

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23 Paid by: \_\_\_\_\_

24 Job Number: 6678543

25

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1 doug@welmakerlaw.com  
2 May 20, 2024  
3 Maldonado, Aaron Et Al v. Mammoth Energy Services, Et Al  
4 DEPOSITION OF: Miguel Rosario (# 6678543)

5 The above-referenced witness transcript is  
6 available for read and sign.  
7 Within the applicable timeframe, the witness  
8 should read the testimony to verify its accuracy. If  
9 there are any changes, the witness should note those  
10 on the attached Errata Sheet.

11 The witness should sign and notarize the  
12 attached Errata pages and return to Veritext at  
13 errata-tx@veritext.com.

14 According to applicable rules or agreements, if  
15 the witness fails to do so within the time allotted,  
16 a certified copy of the transcript may be used as if  
17 signed.

18 Yours,  
19 Veritext Legal Solutions  
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25

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**[00956 - 8824.76.]**

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**[9 - bayamon]**

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**[company - disciplinary]**

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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